Initial Study/Addendum

300 South Second Street Student Housing ("The Graduate") Project

File No. H16-036 and T16-048

Prepared by the

CITY OF SAN JOSE
CAPITAL OF SILICON VALLEY

March 2017

ADDENDUM TO THE SAN JOSÉ DOWNTOWN STRATEGY 2000 FINAL PROGRAM ENVIRONMENTAL IMPACT REPORT (SCH #2003042127), AND THE ENVISION SAN JOSÉ 2040 GENERAL PLAN FINAL PROGRAM ENVIRONMENTAL IMPACT REPORT AS SUPPLEMENTED (SCH# 2009072096)

Pursuant to Section 15164 of the CEQA Guidelines, the City of San José has prepared an Addendum to the *San José Downtown Strategy 2000 Final Program Environmental Impact Report* (Downtown Strategy EIR) and the *Envision San José 2040 General Plan Final Program Environmental Impact Report* (General Plan EIR) and Supplemental Environmental Impact Report (General Plan SEIR) because minor changes made to the project, as described below, do not raise important new issues about the significant impacts on the environment.

H16-036 and T16-048 – 300 South Second Street Student Housing Project. The project proposes to construct a 19-story, 260-unit residential building with up to 14,800 square feet of ground floor retail/commercial space. The building would have a maximum building height of 202 feet. The retail/commercial space would be located along the East San Carlos Street and South Third Street frontages. The project would include a Tentative Map to combine six lots of varying sizes into one lot. The 260 units would have a total of 1,039 beds.

Location: The 1.45-acre project site is comprised of four parcels located at the southeast corner of South Second Street and East San Carlos Street in downtown San José.

Council District: 3.

Assessor's Parcel Numbers: 467-46-005, 467-46-008, 467-46-072, 467-46-110

The environmental impacts of this project were addressed by the following Environmental Impact Reports: "The Downtown Strategy 2000 Final Program Environmental Impact Report," adopted by City Council Resolution No. 72767 on June 21, 2005; "Envision San José 2040 General Plan Final Program Environmental Impact Report," adopted by City Council Resolution No. 76041 on November 1, 2011; and "Supplemental Environmental Impact Report to the Envision San José 2040 General Plan Final Program Environmental Impact Report," adopted by City Council Resolution No. 77617 on December 15, 2015.

The proposed project is eligible for an addendum pursuant to CEQA Guidelines §15164, which states that "A lead agency or responsible agency shall prepare an addendum to a previously certified EIRs if some changes or additions are necessary but none of the conditions described in CEQA Guidelines §15162 calling for preparation of a subsequent EIR have occurred." Circumstances which would warrant a subsequent EIRs include substantial changes in the project or new information of substantial importance which would require major revisions of the previous EIRs due to the occurrence of new significant impacts and/or a substantial increase in the severity of previously identified significant effects.

The following impacts were reviewed and found to be adequately considered by the Downtown Strategy 2000 FPEIR and 2040 GP FPEIR as supplemented:

☒Aesthetics	☒Agriculture Resources	☒Air Quality
☒Biological Resources	☒Cultural Resources	☒Geology and Soils
☒Greenhouse Gas Emissions	☒ Hazardous Materials	☒Hydrology & Water Quality
☒Land Use	☒Mineral Resources	☒Noise
☒Population and Housing	☒Public Services	☒Recreation
☒Transportation/Traffic	☒Utilities & Service Systems	☒Energy
☒Growth Inducing	☒Cumulative Impacts	☒Mandatory Findings of Sig.

ANALYSIS

The amount of residential and commercial development proposed for the site was included and analyzed in the Downtown Strategy EIR and the certified General Plan EIR as supplemented, at a program level.

The Downtown Strategy EIR, and addenda thereto was a broad range, program-level environmental document, which analyzed the following level of development in the Greater Downtown Core Area during the planning horizon of Downtown Strategy:

- 11.2 million square feet of office development;
- 8,500 residential dwelling units;
- 1.4 million square feet of retail development; and
- 3,600 hotel rooms.

The project, as proposed, would construct a mixed-use 19-story, 260-unit residential building with up to 14,800 square feet of ground floor retail/commercial space. The type and intensity of development proposed is consistent with the intent of the Downtown Strategy and the findings of the Downtown Strategy EIR.

The General Plan EIR included the project site in the evaluation for the Downtown land use designation. This designation allows for office, retail, service, residential, and entertainment uses in the Downtown at very high intensities. The project conforms to the Downtown General Plan land use designation in that it proposes high-density residential and commercial uses, consistent with the Envision San José 2040 General Plan and the General Plan EIR.

As analyzed in the attached Initial Study, the project would comply with the Greenhouse Gas Reduction Strategy identified in the 2040 General Plan and would not result in greenhouse gas emission impacts beyond those identified in the General Plan EIR and SEIR.

No new or more significant environmental impacts beyond those identified in the Downtown Strategy EIR, General Plan EIR, and General Plan SEIR have been identified, nor have any new mitigation measures or alternatives which are considerably different from those analyzed in the EIRs been identified. The project will not result in a substantial increase in the magnitude of any significant environmental impact previously identified in the EIRs. For these reasons, a supplemental or subsequent EIR is not required and an Addendum to the Downtown Strategy EIR, General Plan EIR, and General Plan SEIR as supplemented has been prepared for the proposed project.

This addendum will not be circulated for public review, but will be attached to the San José Downtown Strategy EIR, General Plan EIR, and General Plan SEIR as supplemented pursuant of CEQA Guidelines §15164(c).

Harry Freitas, Director
Planning, Building and Code Enforcement

3/7/17
Date

Deputy

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SECTION 1.0 INTRODUCTION AND PURPOSE

1.1 PURPOSE OF THE ADDENDUM

This Addendum to the *San José Downtown Strategy 2000 Environmental Impact Report (*Downtown Strategy EIR*)* and the *Envision San José 2040 General Plan Environmental Impact Report (*General Plan EIR*)* has been prepared by the City of San José as the Lead Agency, in conformance with the California Environmental Quality Act (CEQA), the CEQA Guidelines (Title 14, California Code of Regulations §15000 et seq), and the regulations and policies of the City of San José. The purpose of this Initial Study/Addendum (IS/Addendum) is to inform decision makers and the general public of the environmental impacts that might reasonably be anticipated to result from development of the proposed project.

On June 21, 2005, the City Council certified the Downtown Strategy EIR (Resolution No. 72767) and adopted the Downtown Strategy EIR which provided a vision for future housing, office, commercial, and hotel development within the Downtown area consistent with the San José 2020 General Plan. The Downtown Strategy plan is a strategic redevelopment plan that initially anticipated a planning horizon of 2000-2010 that focused on the revitalization of Downtown San José by supporting higher density infill development and replacement of underutilized properties. While the planning horizon of the Downtown Strategy was 2010, implementation of the plan was delayed due to economic conditions including the Great Recession of 2008. As part of the 2005 Downtown Strategy EIR's analysis, the traffic analysis projected traffic conditions to 2020, which has turned out to be a more realistic timeframe for full implementation of the plan.

The existing Downtown Strategy has a development capacity of 8,500 residential units, with 7,500 allowed in Phase 1. At the time this IS/Addendum was completed, these development levels had not been met including constructed, approved, and projects currently on file.

The original Downtown Strategy EIR evaluated all environmental impacts, including traffic, noise, air quality, biological resources, and land use at a program (General Plan) level. The program-level environmental impacts were updated as part of the General Plan EIR, certified in September 2011 and supplemented in December 2015. Therefore, the 260 residential units included in the proposed project have been evaluated in the original Downtown Strategy EIR at a program-level, which remains current.

Further, an IS/Addendum to the Downtown Strategy EIR was prepared in July 2016 which updated traffic conditions a decade after the Downtown Strategy EIR was certified, and determined that no new impacts would occur related to the construction of Phase 1 of the Downtown Strategy (7,500 residential units). Utilizing 2014-2015 traffic counts and the City's updated CUBE model, it was determined that up to 7,500 units could be constructed within Downtown without resulting in new or different traffic impacts than had been disclosed in the Downtown Strategy EIR. For this reason and those described above, the Downtown Strategy EIR continues to be an accurate evaluation of program-level impacts of proposed Phase 1 development projects Downtown, of which this project is a part.

While traffic impacts of the Downtown Strategy were evaluated at a project- or site-specific level and recently updated in 2016, the Downtown Strategy EIR analysis assumed that project-level site-

specific environmental issues for a given parcel proposed for redevelopment would require additional review. This IS/Addendum provides that subsequent project-level environmental review.

The Downtown Strategy EIR was a broad range, program-level environmental document. The General Plan EIR did, however, develop project level information whenever possible, such as when a particular site was identified for a specific size and type of development. The General Plan EIR also identified mitigation measures and adopted Statements of Overriding Consideration for all identified traffic and air quality impacts resulting from the maximum level of proposed development. All subsequent development that has occurred as part of the Downtown Strategy plan has had project specific supplemental environmental review.

In 2011, the City of San José approved the General Plan, which is a long-range program for the future growth of the City. The General Plan EIR was a broad range analysis of the planned growth and did not analyze specific development projects. The intent was for the General Plan EIR to be a program level document from which subsequent development consistent with the General Plan could tier. The City of San José also approved an *Envision San José 2040 Plan Supplemental EIR* (General Plan SEIR*)* for the General Plan to include and update the greenhouse gas emissions analysis in December 2015.

This IS/Addendum has been prepared as part of the supplemental environmental review process needed to evaluate the proposed project in terms of the overall development envisioned in the Downtown Strategy plan and the General Plan.

This IS/Addendum and all documents referenced in it are available for public review in the Department of Planning, Building and Code Enforcement at San José City Hall, 200 East Santa Clara Street, 3rd floor, during normal business hours.

1.2 NOTICE OF DETERMINATION

If the project is approved, the City of San José will file a Notice of Determination (NOD), which will be available for public inspection and posted within 24 hours of receipt at the County Clerk's Office for 30 days. The filing of the NOD starts a 30-day statute of limitations on court challenges to the approval under CEQA (CEQA Guidelines Section 15075(g)).

SECTION 2.0 PROJECT INFORMATION

2.1 PROJECT TITLE

300 South Second Street Student Housing Project

2.2 LEAD AGENCY CONTACT

City of San José
Department of Planning, Building and Code Enforcement
Thai-Chau Le, Planner
Thai-Chau.Le@sanjoséca.gov
(408) 535-5658
200 East Santa Clara Street
San José, CA 95113

2.3 PROJECT APPLICANT

AMCAL Equities LLC

2.4 PROJECT LOCATION

The 1.45-acre project site is comprised of four parcels located at the southeast corner of South Second Street and East San Carlos Street in downtown San José. See Figures 2.0-1 through 2.0-3.

2.5 ASSESSOR'S PARCEL NUMBER

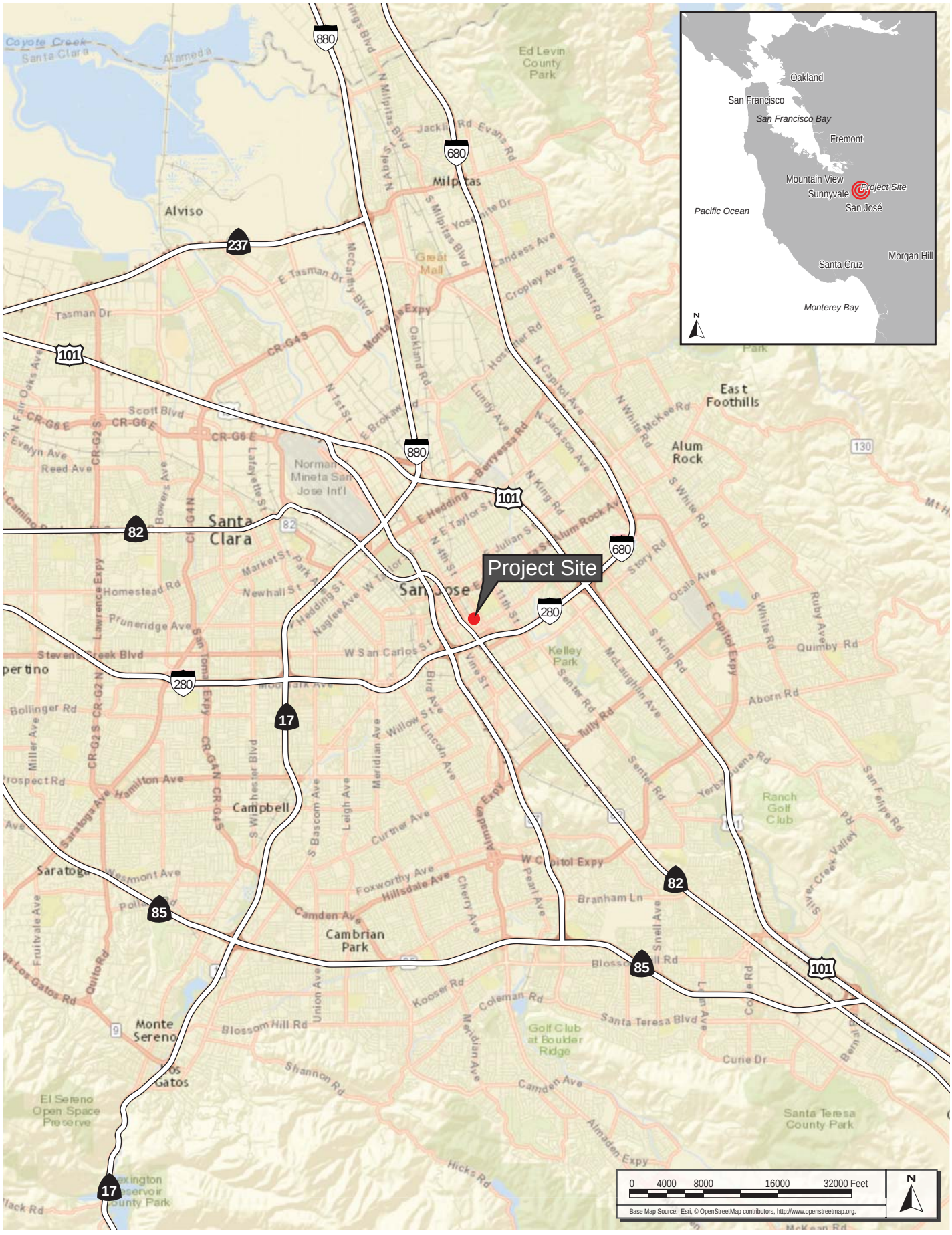
467-46-005
467-46-008
467-46-072
467-46-110

2.6 GENERAL PLAN DESIGNATION AND ZONING DISTRICT

The proposed project is designated *Downtown* under the General Plan and is zoned *DC – Downtown Commercial*.

2.7 PROJECT-RELATED APPROVALS, AGREEMENTS, AND PERMITS

- Architectural Review
- Demolition Permit
- Grading Permit(s)
- Building Permit(s)
- Tentative Map



REGIONAL MAP

FIGURE 1

VICINITY MAP

FIGURE 2

AERIAL PHOTOGRAPH AND SURROUNDING LAND USES

FIGURE 3

SECTION 3.0 PROJECT DESCRIPTION

3.1 CURRENT SITE CONDITIONS

The 1.45-acre project site is comprised of four parcels (APNs 467-46-005, -008, -072 and -110) located on the south side of East San Carlos Street between South Second Street and South Third Street in the downtown area of San José. The project site is currently developed with two one-story commercial buildings and a surface parking lot. The project site is designated *Downtown* under the City's General Plan and is zoned *DC – Downtown Core*.

The property owner has received a demolition permit from the City that would allow both buildings on-site to be demolished prior to completion of the project entitlement process, and regardless of whether or not the project is approved. As a result, the following analysis assumes the site to be vacant and does not provide any credit for exiting utility use, traffic trips, etc. The analysis does, however, provide a historic assessment of the buildings on-site and addresses the changes in the visible character of the site with and without the existing buildings.

3.2 PROPOSED PROJECT

3.2.1 Residential

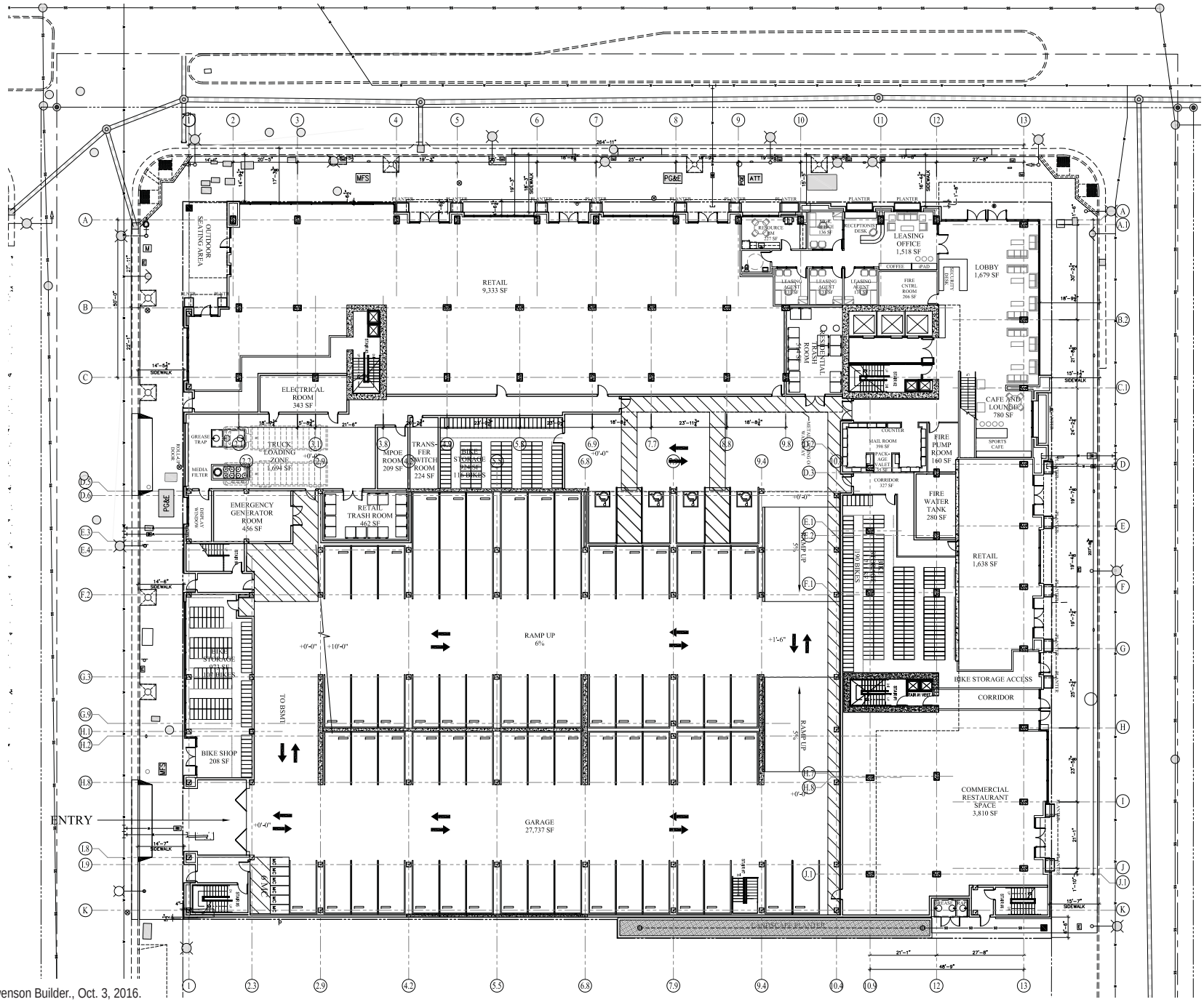
The project proposes to construct a 19-story, 260-unit residential building with up to 14,800 square feet of ground floor retail/commercial space. (See 3.0-1 Ground Level Conceptual Site Plan) The building would have a maximum building height of 202 feet. The retail/commercial space would be located along the East San Carlos Street and South Third Street frontages. The proposed elevations are shown on Figure 3.0-2 below. The project would include a Tentative Map to combine six lots of varying sizes into one lot.

The intent of the building is to provide student housing for nearby San José State University. The 260 units would have a total of 1,039 beds. By law, there cannot, however, be restrictions on who may occupy the building. As such, the building may be rented by unit or by bed. The analysis in this IS/Addendum assumes standard occupancy for high-rise apartments.

3.2.2 Open Space and Amenities

An outdoor seating area, located on the northwestern corner of the building, is proposed on the first floor. A recreational deck, which would include a pool, a spa, two bocce ball courts, and a lounge and dining area, is proposed on the fourth floor. The recreational deck would be approximately 24,380 square feet in size and would be located at the center and southwestern portion of the site.

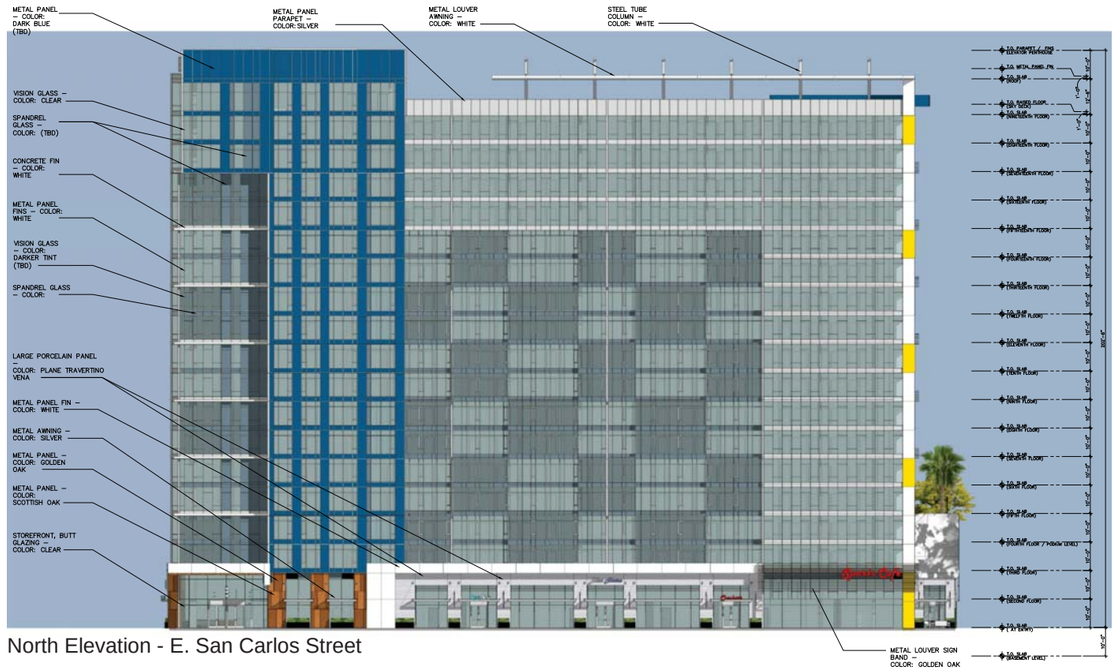
Within the building, the project proposes approximately 2,409 square feet of amenity space on the second floor which could include study rooms, sauna and steam rooms, and a yoga studio. On the third floor, a multi-purpose room (approximately 1,180 square feet) is proposed. In addition, an approximately 2,515 square foot fitness room is proposed on the fourth floor, immediately south of the pool area.



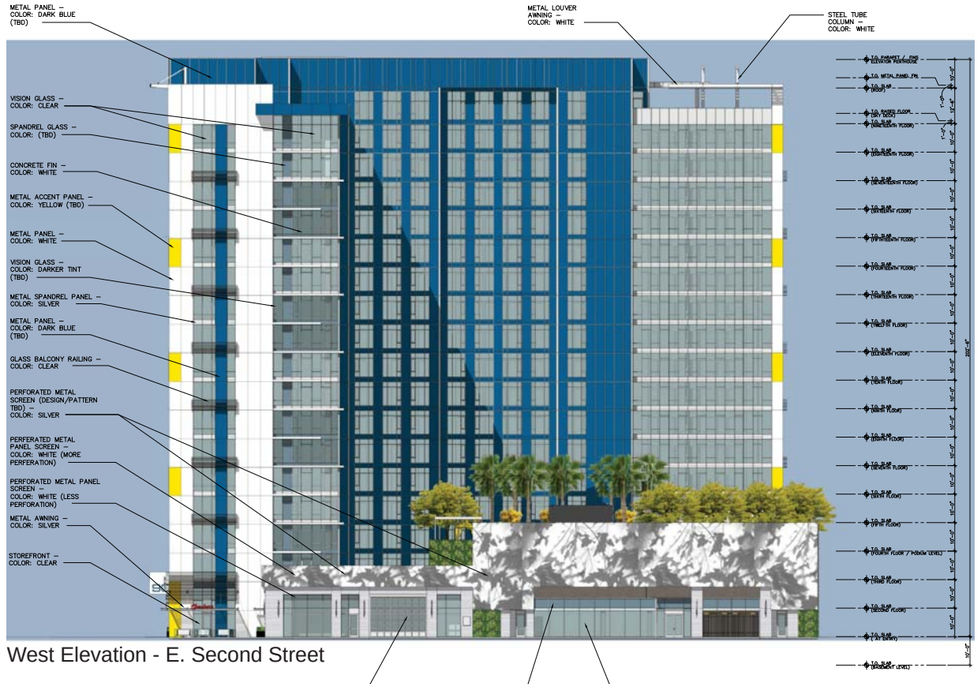
Source: Barry Swenson Builder., Oct. 3, 2016.

CONCEPTUAL SITE PLAN

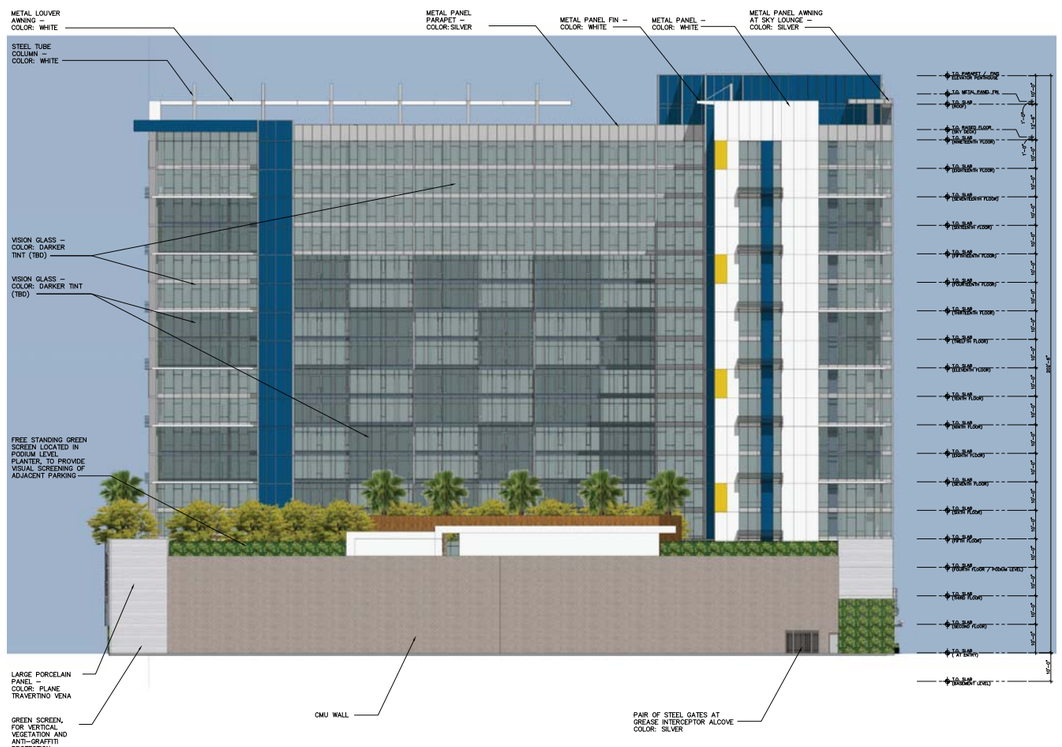
FIGURE 3.0-1



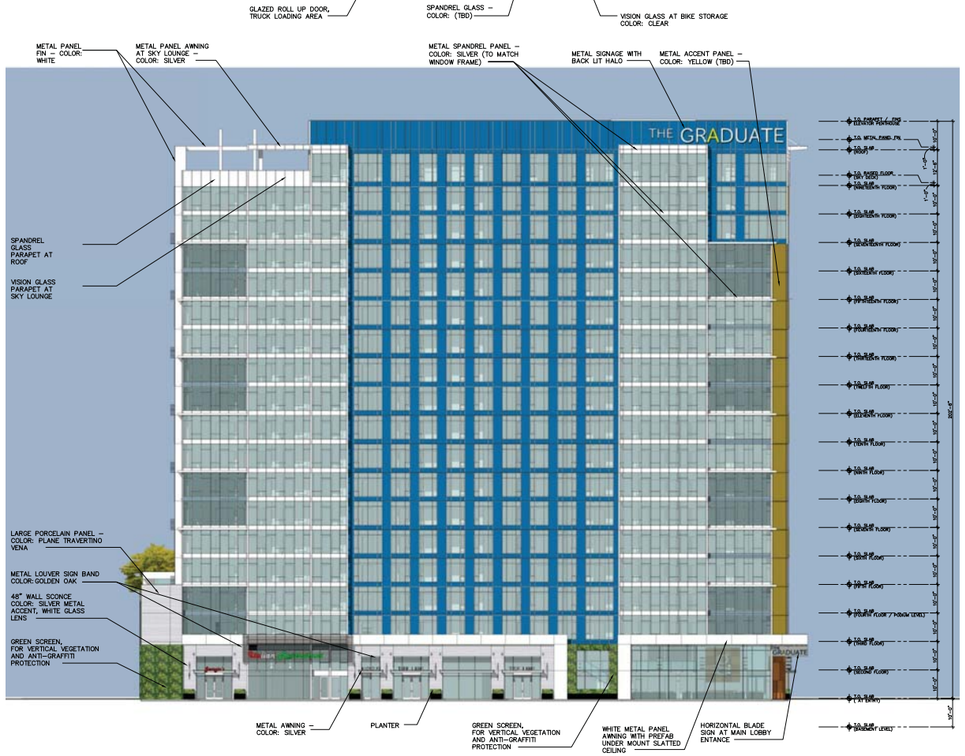
North Elevation - E. San Carlos Street



West Elevation - E. Second Street



South Elevation - Facing YMCA Parking Lot



East Elevation - S. Third Street

Source: Barry Swenson Builder., Oct. 3, 2016.

ELEVATIONS

FIGURE 3.0-2

3.2.3 Site Access and Parking

The project includes a parking garage (one-level of below-grade and three-levels of above-grade) that would have a total of 265 spaces. Vehicular access to the parking garage would be provided via a driveway on South Second Street. The project would also provide 577 secure bicycle parking spaces.

The project proposes to remove the existing sidewalks on E. San Carlos Street, S. Second Street, and S. Third Street along the project frontages, and construct new 15-foot wide sidewalks. Tree wells would be added on all street frontages for new street trees.

3.2.4 General Plan and Zoning Designations

The project site is designated *Downtown* under the City's General Plan and has a zoning designation of *DC – Downtown Core*. The *Downtown* designation includes office, retail, service, residential, and entertainment uses in the Downtown. All developments within this designation should enhance the "complete community" in downtown, support pedestrian and bicycle circulation, and increase transit ridership. Residential development within the *Downtown* designation should incorporate ground floor commercial uses. Under this designation, projects can have a maximum floor area ratio (FAR) of 30.0 and up to 800 dwelling units per acre.

Under the *DC – Downtown Commercial* zoning designation, development shall only be subject to the height limitations necessary for the safe operation of Mineta San José International Airport. Developments located in this zoning district shall not be subject to any minimum setback requirements. Please refer to *Section 4.10 Land Use and Planning* for a complete discussion of the project's consistency with the General Plan and zoning designation.

3.2.5 Green Building Measures

The proposed project would be required to build to the California Green Building Code (CALGreen), which includes design provisions intended to minimize wasteful energy consumption. The proposed development would be designed to achieve minimum Leadership in Energy and Environmental Design (LEED) certification consistent with San José Council Policy 6-32.

3.2.6 Construction

It is anticipated that the project would be constructed over an approximate 29-month period, starting in 2017. The site would be excavated to a depth of approximately 10 feet for the one-story below-grade parking garage. It is estimated that construction of the project would require an export of approximately 47,000 cubic yards of soil.

SECTION 4.0 ENVIRONMENTAL SETTING, CHECKLIST, AND IMPACT DISCUSSION

This section presents the discussion of impacts related to the following environmental subjects in their respective subsections:

4.1	Aesthetics	4.10	Land Use and Planning
4.2	Agricultural and Forestry Resources	4.11	Mineral Resources
4.3	Air Quality	4.12	Noise and Vibration
4.4	Biological Resources	4.13	Population and Housing
4.5	Cultural Resources	4.14	Public Services
4.6	Geology and Soils	4.15	Recreation
4.7	Greenhouse Gas Emissions	4.16	Transportation/Traffic
4.8	Hazards and Hazardous Materials	4.17	Utilities and Service Systems
4.9	Hydrology and Water Quality	4.18	Mandatory Findings of Significance

The discussion for each environmental subject includes the following subsections:

- **Environmental Setting** – This subsection 1) provides a brief overview of relevant plans, policies, and regulations that compose the regulatory framework for the project and 2) describes the existing, physical environmental conditions at the project site and in the surrounding area, as relevant.

- **Checklist and Discussion of Impacts** – This subsection includes a checklist for determining potential impacts and discusses the project's environmental impact as it relates to the checklist questions. For significant impacts, feasible mitigation measures are identified. "Mitigation measures" are measures that will minimize, avoid, or eliminate a significant impact (CEQA Guidelines Section 15370). Each impact is numbered using an alphanumeric system that identifies the environmental issue. For example, **Impact HAZ-1** denotes the first potentially significant impact discussed in the Hazards and Hazardous Materials section. Mitigation measures are also numbered to correspond to the impact they address. For example, **MM NOI-2.3** refers to the third mitigation measure for the second impact in the Noise section.

- **Conclusion** – This subsection provides a summary of the project's impacts on the resource.

Important Note to the Reader

The California Supreme Court in a December 2015 opinion [*California Building Industry Association v. Bay Area Air Quality Management District,* 62 Cal. 4th 369 (No. S 213478)] confirmed that CEQA, with several specific exceptions, is concerned with the impacts of a project on the environment, not the effects the existing environment may have on a project. Therefore, the evaluation of the significance of project impacts under CEQA in the following sections focuses on impacts of the project on the environment, including whether a project may exacerbate existing environmental hazards.

The City of San José currently has policies that address existing conditions (e.g., air quality, noise, and hazards) affecting a proposed project, which are also addressed in this section. This is consistent with one of the primary objectives of CEQA and this document, which is to provide objective information to decision-makers and the public regarding a project as a whole. The CEQA Guidelines and the courts are clear that a CEQA document (e.g., EIR or Initial Study) can include information of interest even if such information is not an "environmental impact" as defined by CEQA.

Therefore, where applicable, in addition to describing the impacts of the project on the environment, this chapter will discuss Planning Considerations that relate to policies pertaining to existing conditions. Such examples include, but are not limited to, locating a project near sources of air emissions that can pose a health risk, in a floodplain, in a geologic hazard zone, in a high noise environment, or on/adjacent to sites involving hazardous substances.

4.1 AESTHETICS

4.1.1 Setting

4.1.1.1 *Project Site*

The 1.45-acre project site is located at the southeast corner of South Second Street and East San Carlos Street in downtown San José. The project site is bounded by East San Carlos Street to the north, South Second Street to the west, and South Third Street to the east. The project site is currently developed with two one-story commercial buildings and a surface parking lot. The two buildings are separated by concrete block walls.

The commercial building located at the northeastern corner of the site (constructed in 1962) is a former McDonald's restaurant and is bordered by a chain-link fence. The northern façade of the building is primarily stucco with wall tiles and decorative glass blocks located above the main entrance. The front façade of the building is boarded-up and all franchise signs have been removed. The southern façade of the building is primarily stucco with decorative wall accents near the roof. (see Photos 1 and 2)

The larger one-story vernacular commercial building on-site (constructed in 1949) is currently occupied by TechShop, a workshop studio. The building has concrete walls capped with metal coping and a flat roof. The walls along the street frontages near East San Carlos Street are segmented horizontally with vertical post-like metal cladding. The original entrances along East San Carlos Street, the corner of South Second Street, and at other locations along the internal parking areas, have been filled in and new entrances have been created. The building can be accessed by two sets of double doors located along South Second Street and one set of double doors on the east side of the building. A large blue and red "TechShop" sign and blue overhangs are located on the eastern, northern, and western building façade. There are brightly colored murals on the east and south sides of the building. (see Photo 3)

4.1.1.2 *Surrounding Land Uses*

The project site is located in a developed, urban area of San José and is surrounded by a mix of retail/commercial and residential land uses. North of the project site is East San Carlos Street, a two lane multi-directional roadway with a wide, raised center median landscaped with mature trees. North of East San Carlos Street is a three-story concrete parking structure with ground floor retail. The ground floor retail has a bigger setback compared to the parking structure, allowing pedestrians to walk underneath the concrete overhang. (see Photos 4)

Immediately west of the project site is South Second Street, a two lane, one-way roadway lined with mature trees on both sides of the roadway. (see Photo 5) West of South Second Street is a three-story, concrete building and a large pay-for-parking surface parking lot. The building has no windows and minimal architectural features on the eastern façade, which faces the project site. There are two entrances, one with a wood and concrete overhang, and a band of bricks located above the first floor of the building. (see Photo 6)

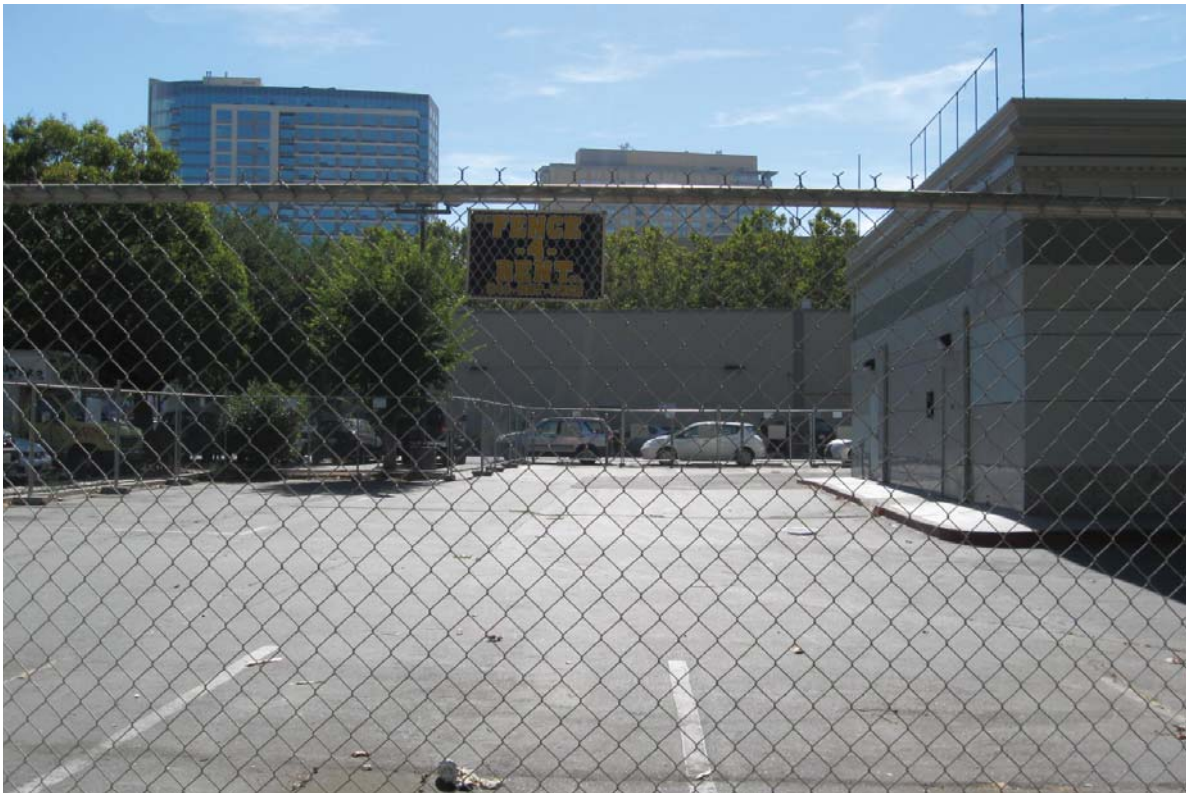


PHOTO 1: View of existing development on project site, looking west from South Third Street.

PHOTO 2: View of the former McDonald's, looking south on East San Carlos Street.

PHOTO 3: View of project site, looking northwest on the project site.

PHOTO 4: View of surrounding development, looking north from East San Carlos Street.

PHOTO 5: View of surrounding development, looking southwest from South Second Street.

PHOTO 6: View of surrounding development, looking northwest from South Second Street.

PHOTO 7: View of surrounding development, looking south on the project site.

PHOTO 8: View of surrounding development, looking east from South Third Street.

PHOTO 9: View of surrounding development, looking southeast on South Third Street.

South of the project site is a five-story apartment complex with YWCA offices on the first and second floors. The building is primarily stucco and has a gable rooftop with red tiles. Each residential unit has a balcony and double-hung windows. (see Photo 7)

Immediately east of the project site is South Third Street, a two lane, one-way roadway lined with mature trees. East of South Third Street are multiple two-story, single-family houses which have been converted to commercial businesses. The primarily architectural style is Victorian. These buildings are well maintained and retain much of their original architectural features. (see Photos 8 and 9)

4.1.1.3 *Regulatory Framework*

The Envision San José 2040 General Plan includes policies applicable to all development projects in San José. The following policies are specific to visual character and scenic resources and applicable to the proposed project.

Policy CD-1.1: Require the highest standards of architecture and site design, and apply strong design controls for all development projects, both public and private, for the enhancement and development of community character and for the proper transition between areas with different types of land uses.

Policy CD-1.8: Create an attractive street presence with pedestrian-scaled building and landscape elements that provide an engaging, safe, and diverse walking environment. Encourage compact, urban design, including use of smaller building footprints, to promote pedestrian activity through the City.

Policy CD-1.12: Use building design to reflect both the unique character of a specific site and the context of surrounding development and to support pedestrian movement throughout the building site by providing convenient means of entry from public streets and transit facilities where applicable, and by designing ground level building frontages to create an attractive pedestrian environment along building frontages. Unless it is appropriate to the site and context, franchise-style architecture is strongly discouraged.

Policy CD-1.13: Use design review to encourage creative, high-quality, innovative, and distinctive architecture that helps to create unique, vibrant places that are both desirable urban places to live, work, and play and that lead to competitive advantages over other regions.

Policy CD-1.17: Minimize the footprint and visibility of parking areas. Where parking areas are necessary, provide aesthetically pleasing and visually interesting parking garages with clearly identified pedestrian entrances and walkways. Encourage designs that encapsulate parking facilities behind active building space or screen parked vehicles from view from the public realm. Ensure that garage lighting does not impact adjacent uses, and to the extent feasible, avoid impacts of headlights on adjacent land uses.

Policy CD-1.23: Further the Community Forest Goals and Policies in this Plan by requiring new development to plant and maintain trees at appropriate locations on private property and along public street frontages. Use trees to help soften the appearance of the built environment, help provide transitions between land uses, and shade pedestrian and bicycle areas.

Policy CD-6.2: Design new development with a scale, quality, and character to strengthen Downtown's status as a major urban center.

4.1.2 Checklist and Discussion of Impacts

	New Potentially Significant Impact	New Less Than Significant With Mitigation Incorporated	New Less Than Significant Impact	Same Impact as "Approved Project"	Less Impact than "Approved Project"	Checklist Source(s)
Would the project:						
a) Have a substantial adverse effect on a scenic vista?	☐	☐	☐	☒	☐	1-4
b) Substantially damage scenic resources, including, but not limited to, trees, rock outcroppings, and historic buildings within a state scenic highway?	☐	☐	☐	☒	☐	1-4
c) Substantially degrade the existing visual character or quality of the site and its surroundings?	☐	☐	☐	☒	☐	1-4
d) Create a new source of substantial light or glare which will adversely affect day or nighttime views in the area?	☐	☐	☐	☒	☐	1-4

Aesthetic values are, by their nature, subjective. Opinions as to what constitutes a degradation of visual character will differ among individuals. One of the best available means for assessing what constitutes a visually acceptable standard for new buildings are the City's design standards and implementation of those standards through the City's design process. The following discussion addresses the proposed changes to the visual setting of the project area and factors that are part of the community's assessment of the aesthetic values of a project's design, consistent with the assumptions in the General Plan, the General Plan EIR, and Downtown Strategy EIR.

4.1.2.1 *Impacts to Scenic Views and Scenic Resources (Checklist Questions a and b)*

Most of the City is relatively flat and prominent views, other than buildings, are limited. The project area in particular has minimal to no scenic views due to the existing built environment and no designated scenic resources.[1] Buildings in the immediate project area range from one- to six-stories, though taller buildings are visible to the north and west. In addition, a 25-story residential building was recently approved approximately two blocks southwest of the project site, which when built would also be visible for the project site and immediate area.

Construction of a 19-story building would be consistent with other development in the immediate area and would not damage or diminish scenic views in the project area. **[Same Impact as**

[1] The General Plan defines scenic vistas or resources in the City as broad views of Santa Clara Valley, the hills and mountains surrounding the valley, the urban skyline, and the baylands.

Approved Project (Less Than Significant Impact)]

4.1.2.2 *Changes in Visual Character (Checklist Question c)*

The project site is located in a developed, urban area of San José and is surrounded by a mix of retail/commercial and residential land uses. Any new construction on this site would be visible from roadways and surrounding properties. The project site is surrounded by a multitude of architectural styles and building heights.

The General Plan EIR concluded that while new development and redevelopment allowed under the General Plan would alter the appearance of the City, implementation of the adopted policies and existing regulations would avoid substantial degradation of the visual character and quality of the City. In addition, the proposed project would be required to comply with all applicable urban design concepts and guidelines as part of the Downtown Strategy plan. As a result, the proposed project would have a less than significant impact on the visual character and quality of the City. **[Same Impact as Approved Project (Less Than Significant Impact)]**

4.1.2.3 *Light and Glare Impacts (Checklist Question d)*

As mentioned above, development on the project site would be highly visible from the surrounding roadways and properties. The General Plan EIR concluded that while new development and redevelopment under the General Plan could result in new sources of nighttime light and daytime glare, implementation of the adopted plans and existing regulations would avoid substantial light and glare impacts. In addition, the project is required to comply with all applicable urban design concepts adopted as part of the Downtown Strategy plan. The final lighting plans would be reviewed subsequent to approval of the site development permit to ensure proper shielding of exterior lights and minimization of light spillover from interior lights. Therefore, the proposed project would not significantly impact adjacent land uses with increased nighttime light levels or daytime glare from building materials. **[Same Impact as Approved Project (Less Than Significant Impact)]**

4.1.3 Conclusion

Implementation of the proposed project would have the same less than significant aesthetic impact as previously identified in the Downtown Strategy EIR and the General Plan EIR. **[Same Impact as Approved Project (Less Than Significant Impact)]**

4.2 AGRICULTURAL AND FORESTRY RESOURCES

4.2.1 Setting

The project site is located in a developed, urban area of San José and is surrounded by a mix of retail/commercial and residential land uses. The *Santa Clara County Important Farmlands 2012 Map* designates the project site as "Urban and Built-Up Land." Urban and Built-up Land is defined as land with at least six structures per 10 acres. Common examples of "Urban and Built-Up Land" are residential, institutional, industrial, commercial, landfill, golf course, airports, and other utility uses.[2] There are no forest lands on or adjacent to the project site. The site is not subject to a Williamson Act contract.

4.2.2 Checklist and Discussion of Impacts

	New Potentially Significant Impact	New Less Than Significant With Mitigation Incorporated	New Less Than Significant Impact	Same Impact as "Approved Project"	Less Impact than "Approved Project"	Checklist Source(s)
Would the project:						
a) Convert Prime Farmland, Unique Farmland, or Farmland of Statewide Importance (Farmland), as shown on the maps prepared pursuant to the Farmland Mapping and Monitoring Program of the California Resources Agency, to non-agricultural use?	☐	☐	☐	☒	☐	1-5
b) Conflict with existing zoning for agricultural use, or a Williamson Act contract?	☐	☐	☐	☒	☐	1-5
c) Conflict with existing zoning for, or cause rezoning of, forest land (as defined in Public Resources Code section 12220(g)), timberland (as defined by Public Resources Code section 4526), or timberland zoned Timberland Production (as defined by Government Code section 51104(g))?	☐	☐	☐	☒	☐	1-5
d) Result in a loss of forest land or conversion of forest land to non-forest use?	☐	☐	☐	☒	☐	1-5

[2] California Natural Resources Agency. *Santa Clara County Important Farmlands 2012.* Accessed August 4, 2016. <ftp://ftp.consrv.ca.gov/pub/dlrp/FMMP/pdf/2012/scl12.pdf>

	New Potentially Significant Impact	New Less Than Significant With Mitigation Incorporated	New Less Than Significant Impact	Same Impact as "Approved Project"	Less Impact than "Approved Project"	Checklist Source(s)
Would the project:						
e) Involve other changes in the existing environment which, due to their location or nature, could result in conversion of Farmland, to non-agricultural use or conversion of forest land to non-forest use?	☐	☐	☐	☒	☐	1-5

Similar to the site development evaluated in the Downtown Strategy EIR and the General Plan EIR, the proposed project would have no impact on agricultural and forest resources, as described below.

4.2.2.1 *Impacts to Agricultural and Forest Resources (Checklist Questions a – e)*

The proposed project would result in construction of a 19-story, 260-unit residence with ground floor retail. The project would not convert *Prime Farmland, Unique Farmland, or Farmland of Statewide Importance* to non-agricultural uses. The project would not conflict with existing zoning for agricultural operations or facilitate in the unplanned conversion of farmland elsewhere in San José to non-agricultural uses. There are no forest lands on or adjacent to the project site and, therefore, would not result in the loss of forest lands in San José. For these reasons, the project would not result in impacts to agricultural or forest resources. **[Same Impact as Approved Project (No Impact)]**

4.2.3 Conclusion

The project would have no impacts to agricultural or forest lands, consistent with the findings of the Downtown Strategy EIR and the General Plan EIR. **[Same Impact as Approved Project (No Impact)]**

4.3 AIR QUALITY

The following discussion is based upon a Toxic Air Contaminant Assessment completed by *Illingworth & Rodkin, Inc.* in November 2016 along with an Addendum provided in March 2017. A copy of this report and the Addendum is included in Appendix A-1 and A-2 of this document.

4.3.1 Setting

4.3.1.1 *Background Information*

Air quality is determined by the concentration of various pollutants in the atmosphere. The amount of a given pollutant in the atmosphere is determined by the amount of pollutants released within an area, transport of pollutants to and from surrounding areas, local and regional meteorological conditions, and the surrounding topography of the air basin.

The Bay Area Quality Management District (BAAQMD) is responsible for assuring that the National and State ambient air quality standards are attained and maintained in the Bay Area. Air quality studies generally focus on four pollutants that are most commonly measured and regulated: carbon monoxide (CO), ground level ozone (O_3), nitrogen dioxide (NO_2), and suspended particulate matter (PM_{10} and $PM_{2.5}$). These pollutants are considered criteria pollutants by the U.S. Environmental Protection Agency (U.S. EPA) and the California Air Resources Board (CARB) as they can result in health effects such as respiratory impairment and heart/lung disease symptoms. As shown in Table 4.3-1, violations of State and Federal standards at the monitoring station in Downtown San José (the nearest monitoring station to the project site) during the 2013-2015 period (the most recent years for which data is available) include high levels of ozone, $PM_{2.5}$, and PM_{10}.[3,4]

Table 4.3-1: Number of Ambient Air Quality Standards Violations and Highest Concentrations (2013-2015)

Pollutant	Standard	Days Exceeding Standard		
		2013	2014	2015
SAN JOSÉ STATION				
Ozone	State 1-hour	1	0	0
	Federal 8-hour	1	0	2
Carbon Monoxide	Federal 8-hour	0	0	0
	State 8-hour	0	0	0
Nitrogen Dioxide	State 1-hour	0	0	0
PM_{10}	Federal 24-hour	0	0	0
	State 24-hour	5	1	1
$PM_{2.5}$	Federal 24-hour	6	2	2

The Bay Area as a whole does not meet State or Federal ambient air quality standards for ground level O_3, State standards for PM_{10}, and Federal standards for $PM_{2.5}$. Based on air quality monitoring

[3] PM refers to Particulate Matter. Particulate matter is referred to by size (i.e., 10 or 2.5) because the size of particles is directly linked to their potential for causing health problems.
[4] Bay Area Air Quality Management District. Annual Bay Area Air Quality Summaries. <http://www.baaqmd.gov/about-air-quality/air-quality-summaries> Accessed August 4, 2016.

data, the California Air Resources Board (CARB) has designated Santa Clara County as a "nonattainment area" for O_3 and PM_{10} under the California Clean Air Act (CAA). The County is either in attainment or unclassified for other pollutants.

4.3.1.2 *Toxic Air Contaminants*

Another group of substances found in ambient air are Toxic Air Contaminants (TACs) under the California CAA. In California, TACs are caused by industry, agriculture, fuel combustion, and commercial operations (e.g., dry cleaners). TACs are typically found in low concentrations, even near their source (e.g., diesel particulate matter near a freeway). Because chronic exposure can result in adverse health effects, TACs are regulated at the regional, State, and Federal level.

Particulate matter from diesel exhaust is the predominant TAC in urban air and is estimated to represent about two-thirds of the cancer risk from TACs (based on the statewide average). Diesel is of particular concern since it can be distributed over large regions, thus leading to widespread public exposure. CARB has adopted and implemented a number of regulations for stationary and mobile sources to reduce emissions of diesel particulate matter (DPM).

4.3.1.3 *Sensitive Receptors*

Sensitive receptors are groups of people that are more susceptible to exposure to pollutants (i.e., children, the elderly, and people with illnesses). Locations that may contain high concentrations of sensitive population groups include residential areas, hospitals, daycare and elder care facilities, elementary schools, parks and places of assembly. The closest sensitive receptors are the apartments located approximately 60 feet south of the project site. Other sensitive receptors are located approximately 140 feet northeast of the project site, at the northeast corner of the East San Carlos Street/South Third Street intersection. The project would generate new sensitive receptors.

4.3.1.4 *Applicable Plans, Policies and Regulations*

The Envision San José 2040 General Plan includes policies applicable to the proposed project.

Policy MS-10.1: Assess projected air emissions from new development in conformance with the BAAQMD CEQA Guidelines and relative to state and federal standards. Identify and implement air emissions reduction measures.

Policy MS-10.2: Consider the cumulative air quality impacts from proposed developments for proposed land use designation changes and new development, consistent with the region's Clean Air Plan and State law.

Policy MS-11.1: Require completion of air quality modeling for sensitive land uses such as new residential developments that are located near sources of pollution such as freeways and industrial uses. Require new residential development projects and projects categorized as sensitive receptors to incorporate effective mitigation into project designs or be located an adequate distance from sources of toxic air contaminants (TACs) to avoid significant risks to health and safety.

Policy MS-13.1: Include dust, particulate matter, and construction equipment exhaust control measures as conditions of approval for subdivision maps, site development and planned development

permits, grading permits, and demolition permits. At a minimum, conditions shall conform to construction mitigation measures recommended in the current BAAQMD CEQA Guidelines for the relevant project size and type.

Policy MS-13.2: Construction and/or demolition projects that have the potential to disturb asbestos (from soil or building material) shall comply with all the requirements of the California Air Resources Board's air toxic control measures (ATCMs) for Construction, Grading, Quarrying, and Surface Mining Operations.

4.3.2 Checklist and Discussion of Impacts

	New Potentially Significant Impact	New Less Than Significant With Mitigation Incorporated	New Less Than Significant Impact	Same Impact as "Approved Project"	Less Impact than "Approved Project"	Checklist Source(s)
Would the project:						
a) Conflict with or obstruct implementation of the applicable air quality plan?	☐	☐	☐	☒	☐	1-4,6,7
b) Violate any air quality standard or contribute substantially to an existing or projected air quality violation?	☐	☐	☐	☒	☐	1-4,6,7
c) Result in a cumulatively considerable net increase of any criteria pollutant for which the project region is classified as non-attainment under an applicable federal or state ambient air quality standard including releasing emissions which exceed quantitative thresholds for ozone precursors?	☐	☐	☐	☒	☐	1-4,6,7
d) Expose sensitive receptors to substantial pollutant concentrations?	☐	☐	☐	☒	☐	1-4,6
e) Create objectionable odors affecting a substantial number of people?	☐	☐	☐	☒	☐	1-4

Similar to the site development evaluated in the Downtown Strategy EIR and the General Plan EIR, the proposed project would not result in a significant impact due to construction-related emissions of criteria pollutants or expose sensitive receptors to a significant risk associated with TACs or odors.

4.3.2.1 *Thresholds of Significance*

In 2009, BAAQMD published Proposed Thresholds of Significance. The CEQA Guidelines prepared by BAAQMD in 2011 used these significance criteria to evaluate the impacts caused by projects. BAAQMD's adoption of the 2011 thresholds was called into question by a trial court order

issued March 5, 2012, in California Building Industry Association v. BAAQMD (Alameda Superior Court Case No. RGI0548693) that determined the adoption of the thresholds was a project under CEQA, but did not address the substantive validity, merits or scientific basis of the thresholds. The California Court of Appeal for the Fifth District reversed the trial court decision and the Court of Appeal's decision was appealed to the California Supreme Court. In a December 2015 opinion [*California Building Industry Association v. Bay Area Air Quality Management District,* 62 Cal. 4th 369 (No. S 213478)] the California Supreme Court confirmed that CEQA, with several specific exceptions, is concerned with the impacts of a project on the environment, not the effects the existing environment may have on a project. The opinion did not negate the BAAQMD thresholds.

The issues in the California Building Industry Association v. BAAQMD lawsuit are not relevant to the scientific basis of BAAQMD's analysis of what levels of pollutants should be deemed significant. The City has determined that the scientific information in BAAQMD's proposed thresholds of significance analysis provides substantial evidence to support the 2011 thresholds and regards these thresholds to be based on the best information available for the San Francisco Bay Area Air Basin. Therefore, the thresholds and methodologies from BAAQMD's May 2011 CEQA Air Quality Guidelines are appropriate for use in this analysis to determine whether there would be any project operational impacts in terms of criteria pollutants, toxic air contaminants and odors. These CEQA Air Quality thresholds were used to evaluate air quality impacts from the project.

This analysis is based upon the general methodologies in the most recent BAAQMD CEQA Air Quality Guidelines (dated May 2012) and numeric thresholds identified for the San Francisco Bay Area Air Basin in the May 2011 BAAQMD CEQA Air Quality Guidelines, as shown in Table Table 4.3-2.

Table 4.3-2: Thresholds of Significance Used in Air Quality Analyses

Pollutant	Construction	Operation-Related	
	Average Daily Emissions (pounds/day)	Average Daily Emissions (pounds/day)	Maximum Annual Emissions (tons/year)
ROG, NO_x	54	54	10
PM_{10}	82 (exhaust)	82	15
$PM_{2.5}$	54 (exhaust)	54	10
Fugitive Dust (PM_{10}/$PM_{2.5}$)	Best Management Practices	None	None
Local CO	None	9.0 ppm (Eight-hour)	20.0 ppm (One-hour)
Risk and Hazards for New Sources and Receptors (Project)	Same as Operational Threshold	• Increased cancer risk of >10.0 in one million • Increased non-cancer risk of > 1.0 Hazard Index (chronic or acute) • Ambient $PM_{2.5}$ increase: > 0.3 µ/m^3 (Zone of influence: 1,000-foot radius from property line of source or receptor)	
Risk and Hazards for New Sources and Receptors (Cumulative)	Same as Operational Threshold	• Increased cancer risk of >100 in one million • Increased non-cancer risk of > 10.0 Hazard Index (chronic or acute) • Ambient $PM_{2.5}$ increase: > 0.8 µ/m^3 (Zone of influence: 1,000-foot radius from property line of source or receptor)	
Accidental Release of Acutely Hazardous	None	Storage or use of acutely hazardous materials locating near receptors or new receptors locating near stored or	

Table 4.3-2: Thresholds of Significance Used in Air Quality Analyses			
Pollutant	**Construction**	**Operation-Related**	
	Average Daily Emissions (pounds/day)	**Average Daily Emissions (pounds/day)**	**Maximum Annual Emissions (tons/year)**
Materials		used acutely hazardous materials considered significant	
Odors	None	5 confirmed complaints per year averaged over three years	
Source: *BAAQMD CEQA Guidelines* (updated May 2011) and BAAQMD. *Revised Draft Options and Justification Report CEQA Thresholds of Significance*. October 2009.			

4.3.3 Air Quality Impacts

4.3.3.1 *Bay Area 2010 Clean Air Plan (Checklist Question a)*

BAAQMD adopted the *Bay Area 2010 Clean Air Plan* (2010 CAP) in September 2010. This plan addresses air quality impacts with respect to obtaining ambient air quality standards for non-attainment pollutants, reducing exposure of sensitive receptors to TACs, and reducing greenhouse gas (GHG) emissions such that the region can meet AB 32 goals of reducing emissions to 1990 levels by 2020.

The project site is designated *Downtown* under the General Plan. The General Plan designation allows for office, retail, service, residential, and entertainment uses within the downtown area with building heights of three to 30 stories, a FAR of up to 30.0, and residential densities up to 800 dwelling units per acre. The proposed project would include a 19-story, apartment building and ground floor retail with an FAR of 6.68 and a residential density of 179 dwelling units per acre (du/ac), which is consistent with the development assumptions in the General Plan.

The 2010 CAP includes about 55 control measures that are intended to reduce air pollutant emissions in the Bay Area either directly or indirectly. The control measures are divided into five categories that include:

- Measures to reduce stationary and area sources;
- Mobile source measures;
- Transportation control measures;
- Land use and local impact measures; and
- Energy and climate measures

The consistency of the project with the applicable control measures is shown in Table 4.3-3.

Table 4.3-3: Bay Area 2010 Clean Air Plan Applicable Control Measures		
Measure	**Description**	**Project Consistency**
Transportation Control Measures		
Improve Bicycle Access and Facilities	Expand bicycle facilities serving transit hubs, employment sites, educational and cultural facilities, residential areas, shopping districts, and other activity centers.	The project proposes 577 bicycle parking spaces for residents and retail customers and is, therefore, consistent with this control measure.

Table 4.3-3: Bay Area 2010 Clean Air Plan Applicable Control Measures		
Measure	**Description**	**Project Consistency**
Improve Pedestrian Access and Facilities	Improve pedestrian access to transit, employment, and major activity centers.	The project site has been designed to be pedestrian oriented (including ground floor retail uses and street trees). In addition, the existing pedestrian facilities have good connectivity and would provide residents with a safe connection between the project site and the surrounding land uses. The project is consistent with this measure.
Support Local Land Use Strategies	Promote land use patterns, policies, and infrastructure investments that support mixed-use, transit-oriented development that reduce motor vehicle dependence and facilitate walking, bicycling, and transit use.	The proposed mixed-use development is located in the downtown core within walking distance of existing bus stops, light rail, and a major transit hub (Diridon Station). The project would place residents and retail within walking distance of existing and planned residences, jobs, retail, school, and transit. The project is consistent with this measure.
Energy and Climate Measures		
Energy Efficiency	Increase efficiency and conservation to decrease fossil fuel use in the Bay Area.	The project would be required to comply with the City's Green Building Ordinance, which would increase building efficiency over standard construction. The project is consistent with this measure.
Tree-Planting	Promote planting of shade trees to reduce urban heat island effects, save energy, and absorb CO_2 and other air pollutants.	The project would be required to adhere to the City's tree replacement policy. The project is consistent with this control measure.
Urban Heat Island Mitigation	Mitigate the "urban heat island" effect by promoting the implementation of cool roofing, cool paving, and other strategies.	The project would be required to comply with the City's Green Building Ordinance which would increase building efficiency over standard construction. Therefore, the project is consistent with this control measure.

The project includes transportation and energy control measures and is consistent with the Clean Air Plan. The project by itself, therefore, would not result in a significant impact related to consistency with the Bay Area 2010 Clean Air Plan. **[Same Impact as Approved Project (Less Than Significant Impact)]**

4.3.3.2 *Operational Impacts to Local and Regional Air Quality*
(Checklist Questions b and c)

Operational Criteria Pollutant Emissions

The BAAQMD developed screening criteria to provide a conservative indication whether a project would result in potentially significant air quality impacts from criteria pollutant emissions. For operational impacts, the screening size for high-rise apartments is 510 dwelling units. Apartments of smaller size are assumed to have a less than significant operational impact. The proposed project would result in the construction of a 19-story, 260-unit apartment building with ground floor retail, which is below the screening size for the proposed land use. As a result, the proposed project would have a less than significant operational criteria pollutant emissions impact. **[Same Impact as Approved Project (Significant Impact)]**

Operational Emissions - Carbon Monoxide Emissions

Carbon monoxide (CO) emissions from traffic generated by the project would be the pollutant of greatest concern at the local level. Congested intersections with a large volume of traffic have the greatest potential to cause high localized concentrations of CO. Air pollutant monitoring data indicate that CO levels have been below State and Federal standards in the Bay Area since the early 1990s, therefore, the Santa Clara County is in attainment for CO. In addition, intersections affected by the project would not cause any intersections to exceed BAAQMD's screening criteria of 44,000 vehicles per hour. The proposed project would generate approximately 37 AM Peak Hour and 84 PM Peak Hour trips. The number of trips generated by the project is insufficient to increase the traffic volume at any intersection above the screening criteria. Implementation of the project would not result in significant CO emission impacts. **[Same Impact as Approved Project (Less Than Significant Impact)]**

4.3.3.3 *Construction Impacts to Regional and Local Air Quality*
(Checklist Questions b and d)

Dust Generation

Construction activities on-site would include excavation, grading and site preparation, trenching, building construction, and paving which may generate dust and other particulate matter. The nearest sensitive receptors to the project are residences located approximately 60 feet south of the project site. The generation of dust and other particulate matter could temporarily impact nearby sensitive receptors. The project shall implement the following Standard Permit Measures during all phases of construction to reduce dust and other particulate matter emissions.

Standard Permit Conditions

- All exposed surfaces (e.g., parking areas, staging areas, soil piles, graded areas, and unpaved access roads) shall be watered two times per day.
- All haul trucks transporting soil, sand, or other loose material off-site shall be covered.
- All visible mud or dirt track-out onto adjacent public roads shall be removed using wet power vacuum street sweepers at least once per day. The use of dry power sweeping is prohibited.
- All vehicle speeds on unpaved roads shall be limited to 15 mph.

- All roadways, driveways, and sidewalks to be paved shall be completed as soon as possible. Building pads shall be laid as soon as possible after grading unless seeding or soil binders are used.
- Idling times shall be minimized either by shutting equipment off when not in use or reducing the maximum idling time to 5 minutes (as required by the California airborne toxics control measure Title 13, Section 2485 of California Code of Regulations [CCR]). Clear signage shall be provided for construction workers at all access points.
- All construction equipment shall be maintained and properly tuned in accordance with manufacturer's specifications. All equipment shall be checked by a certified mechanic and determined to be running in proper condition prior to operation.
- Post a publicly visible sign with the telephone number and person to contact at the Lead Agency regarding dust complaints. This person shall respond and take corrective action within 48 hours. The Air District's phone number shall also be visible to ensure compliance with applicable regulations.

With implementation of the Standard Permit Conditions, construction dust and other particulate matter would have a less than significant temporary construction air quality impact. **[Same Impact as Approved Project (Less Than Significant Impact)]**

Toxic Air Contaminants

Construction equipment and associated heavy-duty truck traffic generates diesel exhaust, which is a known TAC. The nearest sensitive receptors are residences located approximately 60 feet south of the project site.

A health risk assessment of construction activities was completed to evaluate emissions of diesel particulate matter (DPM) and associated health risks to the nearby sensitive receptors. To quantify the effects of DPM and associated health risks on the nearby sensitive receptors, construction period emissions were computed using the California Emissions Estimator Model (CalEEMod). The following land uses were inputted into the CalEEModel, including 260 dwelling units entered as "Apartments High Rise," 10,971 square feet of "Strip Mall" and 261 spaces entered as "Enclosed Parking".[5] Construction of the project was modeled to begin in 2017 and to take approximately 29 months to complete. The amount of soil material imported is estimated at 1,000 cubic yards and approximately 47,000 cubic yards of soil would be exported. The construction emissions analysis accounted for demolition of the existing buildings on-site.

The sensitive receptor locations that could be affected by project construction are shown in the figure below. The location with the greatest exposure is circled in red.

[5] Since preparation of the TAC Assessment, the project has increased the total number of parking spaces provided from 261 to 265, and increased the square footage of retail from 10,971 sf to 14,800 sf. To accommodate these changes, the overall size of the building would increase by 3,180 sf, which would represent a 0.8 percent increase in the building size, and would not substantially affect the predictions of construction health risks. As a result, the conclusions of the TAC Assessment would not change. Refer to Appendix A-2 for more information.

The U.S. EPA AERMOD dispersion model was used to predict concentrations of DPM and $PM_{2.5}$. The maximum residential child cancer risk was calculated to be 20.6 cases per million and the adult cancer risk was calculated to be 0.4 cancer cases per million. While the adult cancer risk is well below the BAAQMD threshold of 10 cancer cases per million, the child exposure is not. Because the child cancer risk exceeds 10 cases per million, the proposed project could have a significant community risk impact on nearby sensitive receptors during construction activities. The maximum annual $PM_{2.5}$ concentration was calculated to be 0.12 μ/m^3, which is below the BAAQMD significance threshold of 0.3 μ/m^3. The maximum annual residential DPM concentration was 0.09 μ/m^3, which is below the recommended exposure limit. The maximum DPM concentration is 0.1, which is below the BAAQMD significance criterion of a HI greater than 1.0.

Impacts AIR-1: Construction activities associated with the proposed project would expose children near the project site to temporary TAC emissions in excess of acceptable risk thresholds. **(Significant Impact)**

Mitigation and Avoidance Measures

The following mitigation measures would be implemented during all demolition and construction activities to reduce TAC emissions impacts:

MM AIR-1.1: All mobile diesel-powered off-road equipment larger than 25 horsepower and operating on the site for more than two days continuously shall meet U.S. EPA particulate matter emissions standards for Tier 2 engines or equivalent; and

MM AIR-1.2: All diesel-powered portable equipment (i.e., aerial lifts, plate compactors, pumps, generators sets, and forklifts) operating on the site for more than two days shall meet U.S. EPA particulate matter emissions standards for Tier 4 engines or equivalent.

MM AIR-1.3: The project applicant shall submit a construction operations plan that includes specifications of the equipment to be used during construction during the grading permit stage. The plan shall be accompanied by a letter signed by a qualified air quality specialist which verifies that the equipment included in

the plan meets the standards set forth in Mitigation Measures AIR-1.1 and AIR-1.2. The plan shall be reviews and approved by the Supervising Environmental Planner of the City of San José Department of Planning, Building and Code Enforcement prior to issuance of any grading permits.

With implementation of the identified Standard Permit Conditions for dust control and the mitigation measures for TACs, the residential infant cancer risk during construction would be reduced to 6.7 cases per million, which is below the BAAQMD threshold of 10 cases per million. As a result, the project would have a less than significant community risk impact due to construction activities. **[Same Impact as Approved Project (Less Than Significant Impact With Mitigation)]**

4.3.3.4 *Odor Impacts (Checklist Question e)*

The project would generate localized emissions of diesel exhaust during construction equipment operation and truck activity. The odor of these emissions may be noticeable from time to time by adjacent receptors; however, the odors would be temporary and are not likely to affect people off-site.

Operation of the proposed project may result in restaurants within the ground floor retail space which could generate odors. These odors would, however, be comparable to the other surrounding restaurants located along South Third Street and East San Carlos Street and would not create a significant odor impact. Implementation of the proposed project would not result in a long-term odor impact. **[Same Impact as Approved Project (Less Than Significant Impact)]**

4.3.3.5 *Project Air Quality Issue Not Covered Under CEQA*

On December 17, 2015, the California Supreme Court issued an opinion in CBIA vs. BAAQMD holding that CEQA is primarily concerned with the impacts of a project on the environment and generally does not require agencies to analyze the impact of existing conditions on a project's future users or residents unless the project risks exacerbating those environmental hazards or risks that already exist. Nevertheless, the City has policies and regulations that address existing conditions affecting a proposed project, which are also discussed below.

Community Risk Impacts – Toxic Air Contaminants

BAAQMD recommends that projects be evaluated for community health risks when they are located within 1,000 feet of stationary permitted sources of TACs, and/or within 1,000 feet of freeways and high traffic volume roadways (10,000 average daily trips [ADT] or more). Traffic on high volume roadways is a source of TAC emissions that may adversely impact sensitive receptors in close proximity the roadway. A review of the project area indicates that the project site is near two local roadways with ADT greater than 10,000 vehicles.

The *Roadway Screening Analysis Calculator* was used to assess whether the two roadways would have a significant effect on the proposed project. The BAAQMD calculator uses EMFAC2011 emission rates for the year 2014. The results show emission rates are decreasing and would continue to decrease by the time the project is constructed and occupied. The level of community risk to the new sensitive receptors generated by the project is shown in Table 4.3-4 below.

Table 4.3-4: Mobile and Stationary Source Community Risk Levels			
Source	**Cancer Risk (per million)**	**Annual $PM_{2.5}$ Concentration ($\mu g/m^3$)**	**Hazard Index**
South Third Street (north-south)	3.86	0.11	<0.01
South Market Street (east-west)	1.33	0.01	<0.01
Plant 8556	1.80	0.00	0.00
Plant 15031	2.52	0.05	0.00
Plant 9339	3.30	0.07	<0.02
Plant 19298	4.70	0.00	0.00
Plant 15125	1.03	0.00	0.00
Plant 16778	0.3	0.05	<0.01
Total	***<18.8***	***0.29***	***<0.3***
BAAQMD Threshold – Single Source	>10.0	>0.3	>1.0
BAAQMD Threshold – Cumulative Sources	>100	>0.8	>10.0
Threshold Exceeded?	**No**	**No**	**No**

No single source affecting the project site would exceed the single source health risk thresholds. In addition, the combined community risk impacts would not exceed cancer risk of 100 chances per million, annual $PM_{2.5}$ concentrations greater than 0.8 $\mu g/m^3$, and a HI above 10.0. As a result, the new sensitive receptors generated by the project would not be exposed to significant levels of air pollutants or TACs and the proposed project the project would be consistent with General Plan Policy MS-11.1.

4.3.4 Conclusion

The project would not result in significant operational regional or local air quality impacts, conflict with applicable air quality plans and standards, or expose sensitive receptors to substantial pollutant concentrations. **[Same Impact as Approved Project (Less Than Significant Impact)]**

With implementation of the identified mitigation, the project would not result in significant construction-related regional or local air quality impacts. **[Same Impact as Approved Project (Less Than Significant Impact with Mitigation)]**

4.4 BIOLOGICAL RESOURCES

The following discussion is based in part on a tree survey prepared by *David J. Powers & Associates, Inc.* in September, 2016.

4.4.1 Regulatory Setting

Biological resources include plants and animals and the habitats that support them. Individual plant and animal species that are identified as rare, threatened, or endangered under the State and/or Federal Endangered Species Act, and the natural communities of habitats that support them, are of particular concern. Sensitive natural communities (e.g., wetlands, riparian woodlands, and oak woodland) that are critical to wildlife or ecosystem function are also important biological resources.

The avoidance and mitigation of significant impacts to biological resources under CEQA are consistent with and complimentary to various Federal, State, and local laws and regulations that are designed to protect these resources. These regulations often mandate that project sponsors obtain permits that include measures to avoid and/or mitigate impacts required as permit conditions, prior to the commencement of development activities.

4.4.1.1 *City of San José Tree Ordinance*

Ordinance-sized and heritage trees and street trees make up the urban forest and are protected under the City of San José Tree Ordinance. The City of San José Tree Removal Controls (San José City Code, Sections 13.31.010 to 13.32.100) protect all trees having a trunk that measures 56 inches or more in circumference (18 inches in diameter) at the height of 24 inches above the natural grade. A tree removal permit is required from the City prior to removal of any trees.

4.4.1.2 *Existing Conditions*

The project site is located within an urbanized area of downtown San José. Due to the extensive history of development on the project site, there is no native vegetation on-site. Landscaping includes non-native plants and trees, as described below.

4.4.1.3 *Special Status Species*

Special status species are plants and animals listed under the State and Federal Endangered Species Acts (including candidate species); plants listed on the California Native Plant Society's Inventory of Rare and Endangered Vascular Plants of California (1994); and animals designated as Species of Special Concern by the California Department of Fish and Wildlife. Most special status animal species in the Bay Area use habitats that are not present on the project site. Salt marsh, freshwater marsh, and serpentine grassland habitats are also not present on the project site. Since the native vegetation of the area is no longer present on-site, native wildlife species have been supplanted by species that are more compatible with an urbanized area.

4.4.1.4 *Conservation Plan*

The Santa Clara Valley Habitat Conservation Plan (HCP) and Natural Community Conservation Plan (NCCP) was developed through a regional partnership between the County of Santa Clara, Santa Clara Valley Transportation Authority, Santa Clara Valley Water District, the Cities of San José,

Morgan Hill, and Gilroy, Santa Clara Valley Water District (SCVWD), Santa Clara Valley Transportation Authority (VTA), U.S. Fish and Wildlife Service (USFWS), and California Department of Fish and Wildlife (CDFW). It is intended to protect and enhance ecological diversity and function within approximately 500,000 acres of southern Santa Clara County.

4.4.1.5 *Trees*

Trees (both native and non-native) are valuable to the human environment for the benefits they provide including resistance to global climate change (i.e., carbon dioxide absorption), protection from weather, nesting and foraging habitat for raptors and other migratory birds, and as a visual enhancement to the urban environment.

There are a total of 39 trees located on-site (including street trees). Of the 39 trees, there are 11 London plane, six magnolia, four fan palm, four callery pear, three canary island pine, three mayten, three water gum, one American elm, one carob tree, one glossy privet, one hackberry, and one sawleaf zelkova. The following table lists all trees identified on and adjacent to the project site. The location of the trees is shown on Figure 4.4-1.

Table 4.4-1: Tree Survey

Tree #	Scientific Name	Common Name	Size*
1	*Magnolia grandiflora*	Magnolia	31
2	*Magnolia grandiflora*	Magnolia	32
3	*Magnolia grandiflora*	Magnolia	35
4	*Magnolia grandiflora*	Magnolia	39
5	*Ceratonia siliqua*	Carob tree	78
6	*Celtis sinensis*	Hackberry	47
7	*Zelkova serrata*	Sawleaf zelkova	34
8	*Pyrus calleryana*	Callery pear	60
9	*Maytenus boaria*	Mayten	49
10	*Pyrus calleryana*	Callery pear	38
11	*Maytenus boaria*	Mayten	42
12	*Pyrus calleryana*	Callery pear	28
13	*Maytenus boaria*	Mayten	61
14	*Pyrus calleryana*	Callery pear	51
15	*Platanus x acerifolia*	London Plane	57
16	*Platanus x acerifolia*	London Plane	41
17	*Platanus x acerifolia*	London Plane	48
18	*Platanus x acerifolia*	London Plane	47
19	*Platanus x acerifolia*	London Plane	38
20	*Platanus x acerifolia*	London Plane	49
21	*Pinus canariensis*	Canary island pine	68
22	*Platanus x acerifolia*	London Plane	68
23	*Pinus canariensis*	Canary island pine	71

TREE LOCATION MAP

FIGURE 4

Table 4.4-1: Tree Survey			
Tree #	**Scientific Name**	**Common Name**	**Size***
24	*Platanus x acerifolia*	London Plane	41
25	*Platanus x acerifolia*	London Plane	51
26	*Platanus x acerifolia*	London Plane	33
27	*Platanus x acerifolia*	London Plane	42
28	*Ulmus americana*	America Elm	174
29	*Magnolia grandiflora*	Magnolia	29
30	*Magnolia grandiflora*	Magnolia	39
31	*Ligustrum lucidum*	Glossy privet	14
32**	*Washingtonia robusta*	Fan palm	>56
33**	*Washingtonia robusta*	Fan palm	>56
34**	*Washingtonia robusta*	Fan palm	>56
35**	*Washingtonia robusta*	Fan palm	>56
36	*Pinus canariensis*	Canary island pine	55x
37	*Tristania laurina*	Water gum	1
38	*Tristania laurina*	Water gum	1
39	*Tristania laurina*	Water gum	1

Note: Ordinance sized trees are 56+ inches in circumference.
*Circumference measured in inches
** Cluster of palm trees, each tree estimated to be larger than 56 inches
x Tree size estimated based on professional opinion due to lack of access.

4.4.1.6 *Applicable Biological Regulations and Policies*

The Envision San José 2040 General Plan includes the following biological resource policies applicable to the proposed project.

Policy ER-5.1: Avoid implementing activities that result in the loss of active native birds' nests, including both direct loss and indirect loss through abandonment, of native birds. Avoidance of activities that could result in impacts to nests during the breeding season or maintenance of buffers between such activities and active nests would avoid such impacts.

Policy ER-5.2: Require that development projects incorporate measures to avoid impacts to nesting migratory birds.

Policy MS-21.4: Encourage the maintenance of mature trees, especially natives, on public and private property as an integral part of the community forest. Prior to allowing the removal of any mature tree, pursue all reasonable measures to preserve it.

Policy MS-21.5: As part of the development review process, preserve protected trees (as defined by the Municipal Code), and other significant trees. Avoid any adverse effect on the health and longevity of protected or other significant trees through appropriate design measures and construction practices. Special priority should be given to the preservation of native oaks and native sycamores. When tree preservation is not feasible, include appropriate tree replacement, both in number and spread of canopy.

Policy MS-21.6: As a condition of new development, require, where appropriate, the planting and maintenance of both street trees and trees on private property to achieve a level of tree coverage in compliance with and that implements City laws, policies, or guidelines.

4.4.2 Checklist and Discussion of Impacts

	New Potentially Significant Impact	New Less Than Significant With Mitigation Incorporated	New Less Than Significant Impact	Same Impact as "Approved Project"	Less Impact than "Approved Project"	Checklist Source(s)
Would the project:						
a) Have a substantial adverse effect, either directly or through habitat modifications, on any species identified as a candidate, sensitive, or special status species in local or regional plans, policies, or regulations, or by the California Department of Fish and Wildlife (CDFW) or United States Fish and Wildlife Service (USFWS)?	☐	☐	☐	☒	☐	1-4
b) Have a substantial adverse effect on any riparian habitat or other sensitive natural community identified in local or regional plans, policies, regulations, or by the CDFW or USFWS?	☐	☐	☐	☒	☐	1-4
c) Have a substantial adverse effect on federally protected wetlands as defined by Section 404 of the Clean Water Act (including, but not limited to, marsh, vernal pool, coastal, etc.) through direct removal, filling, hydrological interruption, or other means?	☐	☐	☐	☒	☐	1-4
d) Interfere substantially with the movement of any native resident or migratory fish or wildlife species or with established native resident or migratory wildlife corridors, impede the use of native wildlife nursery sites?	☐	☐	☐	☒	☐	1-4
e) Conflict with any local policies or ordinances protecting biological resources, such as a tree preservation policy or ordinance?	☐	☐	☐	☒	☐	1-4,8

	New Potentially Significant Impact	New Less Than Significant With Mitigation Incorporated	New Less Than Significant Impact	Same Impact as "Approved Project"	Less Impact than "Approved Project"	Checklist Source(s)
Would the project:						
f) Conflict with the provisions of an adopted Habitat Conservation Plan, Natural Community Conservation Plan, or other approved local, regional, or state habitat conservation plan?	☐	☐	☒	☐	☐	1-4

Similar to the site development evaluated in the Downtown Strategy EIR and the General Plan EIR, the proposed project would result in less than significant biological resources impacts, as described in the discussion that follows.

4.4.2.1 *Biological Resources Impacts (Checklist Questions a – d and f)*

Vegetation, Habitats, and Wildlife

The majority of downtown San José is developed with buildings, pavement, and landscaping. The remaining natural habitats are associated with approximately 9,000 linear feet of the Guadalupe River and 3,750 linear feet of Los Gatos Creek that pass through the City.[6] The Downtown Strategy EIR concluded that biological resources impacts would result primarily from development along the Guadalupe River and Los Gatos Creek corridors and from the loss of ordinance-sized trees. There are no sensitive or natural habitats on the project site and the project site is not located adjacent to either waterway. As a result, implementation of the project would not result in significant impacts to natural plant communities or special status or endangered species. **[Same Impact as Approved Project (Less Than Significant Impact)]**

There are no federally protected wetlands, as defined by Section 404 of the Clean Water Act, located on the project site. Therefore, the proposed project would not adversely affect special status species, riparian habitat, or wetland habitat. **[Same Impact as Approved Project (Less Than Significant Impact)]**

Habitat Conservation Plan

The project site is within the Santa Clara Valley HCP area. Private development in the plan area is subject to the HCP if it meets the following criteria:

- The activity is subject to either ministerial or discretionary approval by the County or one of the cities;

[6] City of San José. *City of San José Downtown Strategy 2000 Final EIR*.

- The activity is described in Section 2.3.2 *Urban Development* or in Section 2.3.7 *Rural Development*;[7] and

- In Figure 2-5 (of the HCP), the activity is located in an area identified as "Private Development is Covered," OR the activity is equal to or greater than 2 acres AND

  The project is located in an area identified as "Rural Development Equal to or Greater than 2 Acres is Covered," or "Urban Development Equal to or Greater than 2 Acres is Covered" OR

  The activity is located in an area identified as "Rural Development is not Covered" but, based on land cover verification of the parcel (inside the Urban Service Area) or development area, the project is found to impact serpentine, wetland, stream, riparian, or pond land cover types; or the project is located in occupied or occupied nesting habitat for western burrowing owl.

The project is classified as Urban-Suburban land with no special status species or habitat and is in the Urban Areas (No Land Cover Fee) Zone. The project would require discretionary approval by the City and is consistent with activity described in Section 2.3.2 of the HCP. The project would implement the following standard permit condition as part of the project and, therefore, would have no impact on implementation of the HCP

Standard Permit Condition

- The project shall comply with all applicable conditions and fees of the Santa Clara Valley HCP prior to issuance of any grading permit.

[New Less Than Significant Impact (Less Than Significant Impact)]

Raptor Impacts

There are currently 39 trees on the project site, 12 of which are ordinance-sized. The trees could provide nesting and/or foraging habitat for raptors and migratory birds. Migratory birds, like nesting raptors, are protected under provisions of the Migratory Bird Treaty Act and California Department of Fish Wildlife (CDFW) Code Sections 3503, 3503.5, and 2800. The California Department of Fish and Wildlife defines "taking" as causing abandonment and/or loss of reproductive efforts through disturbance. Any loss of fertile eggs, nesting raptors, or any activities resulting in nest abandonment would constitute a significant impact.

Impact BIO-1: Construction activities associated with the proposed project could result in the loss of fertile eggs, nesting raptors or other migratory birds, or nest abandonment. **(Significant Impact)**

[7] Covered activities in urban areas include residential, commercial, and other types of urban development within the Cities of Gilroy, Morgan Hill, and San José planning limits of urban growth in areas designated for urban or rural development, including areas that are currently in the unincorporated County (i.e., in "pockets" of unincorporated land inside the cities' urban growth boundaries).

Mitigation and Avoidance Measures

Project Specific Mitigation Measures

The following mitigation measures would be implemented during construction to avoid abandonment of raptor and other protected migratory bird nests:

MM BIO-1.1: Construction shall be scheduled to avoid the nesting season to the extent feasible. The nesting season for most birds, including most raptors in the San Francisco Bay area, extends from February 1 through August 31.

If it is not possible to schedule demolition and construction between September 1 and January 31, pre-construction surveys for nesting birds shall be completed by a qualified ornithologist to ensure that no nests would be disturbed during project implementation. This survey shall be completed no more than 14 days prior to the initiation of construction activities during the early part of the breeding season (February 1 through April 30) and no more than 30 days prior to the initiation of these activities during the late part of the breeding season (May 1 through August 31). During this survey, the ornithologist would inspect all trees and other possible nesting habitats immediately adjacent to the construction areas for nests. If an active nest is found sufficiently close to work areas to be disturbed by construction, the ornithologist, in consultation with CDFG, would determine the extent of a construction-free buffer zone to be established around the nest, typically 250 feet, to ensure that raptor or migratory bird nests would not be disturbed during project construction.

The ornithologist shall submit a report indicating the results of the survey and any designated buffer zones to the satisfaction of the Supervising Environmental Planner of the City of San José Department of Planning, Building and Code Enforcement prior to issuance of any grading permit.

With implementation of the identified mitigation measures, the project's impact to nesting birds and raptors would be less than significant. **[Same Impact as Approved Project (Less Than Significant Impact With Mitigation)]**

4.4.2.2 *Trees (Checklist Question e)*

The urban forest consists of planted landscape trees along residential and commercial streets and in landscaped areas at residences, local parks, in parking lots, and the perimeter of commercial and industrial developments. The urban forest is considered an important biological resource because trees can provide nesting, cover, and foraging habitat for a variety of birds (including raptors) and mammals, as well as providing necessary habitat for beneficial insects. Although the urban forest is not the best environment for native wildlife, trees in the urban forest are often the only or the best habitat commonly or locally available within urban areas.

As mentioned previously, 39 trees were surveyed as part of the project analysis. For the purpose of

this analysis, it is assumed that the project would remove all 39 trees. As a condition of approval, trees removed as a result of the project would be required to be replaced in accordance with all applicable laws, policies, or guidelines, including:

- City of San José Tree Protection Ordinance
- San José Municipal Code Section 13.28
- General Plan Policies MS-21.4, MS-21.5, and MS 21-6

Table 4.4-2: City of San José Standard Tree Replacement Ratios

Diameter of Tree to Be Removed	Type of Tree to be Removed			Minimum Size of Each Replacement Tree
	Native	Non-Native	Orchard	
18 inches or greater	5:1	4:1	3:1	24-inch box
12-18 inches	3:1	2:1	none	24-inch box
Less than 12 inches	1:1	1:1	none	15-gallon container

x:x = tree replacement to tree loss ratio
Note: Trees greater than 18" diameter shall not be removed unless a Tree Removal Permit, or equivalent, has been approved for the removal of such trees.

In accordance with City policy, tree replacement would be implemented as shown in Table 4-4.2. If all 39 trees are removed, 35 trees would be replaced at a 4:1 ratio and one tree would be replaced at a 2:1 ratio with minimum 24-inch box trees. Three trees would be replaced at a 1:1 ratio with minimum 15-gallon container trees. The total number of replacement trees required to be planted would be 145 trees. The species of trees to be planted would be determined in consultation with the City Arborist and the Department of Planning, Building and Code Enforcement.

In the event the project site does not have sufficient area to accommodate the required tree mitigation, one or more of the following measures would be implemented, to the satisfaction of the Director of Planning, Building and Code Enforcement, at the development permit stage:

- The size of a 15-gallon replacement tree may be increased to a 24-inch box and count as two replacement trees.

- An alternative site(s) would be identified for additional tree planting. Alternative sites may include local parks or schools or installation of trees on adjacent properties for screening purposes to the satisfaction of the Director of the Department of Planning, Building and Code Enforcement.

- A donation of $300 per mitigation tree on Our City Forest for in-lieu off-site tree planting in the community. These funds would be used for tree planting and maintenance of planted trees for approximately three years. A donation receipt for off-site tree planting shall be provided to the Building Division within the Department of Planning, Building, and Code Enforcement prior to the issuance of any occupancy permits.

The General Plan EIR concluded that compliance with local laws, policies or guidelines, as proposed by the project, would reduce impacts to the urban forest to a less than significant level. **[Same Impact as Approved Project (Less Than Significant Impact)]**

4.4.3 Conclusion

Implementation of the project would not have a substantial adverse impact on any special status plant or animal species or wetlands and would not have conflict with adopted conservation plans, local policies, and local ordinances. **[Same Impact as Approved Project (Less Than Significant Impact)]**

The potential loss of raptor nests and/or eggs during construction would be mitigated to a less than significant impact. **[Same Impact as Approved Project (Less Than Significant Impact With Mitigation)]**

Implementation of the project would be subject to all applicable HCP fees and would have a less than significant impact on implementation of the HCP. **[New Less Than Significant Impact (Less Than Significant Impact)]**

4.5 CULTURAL RESOURCES

The following discussion is based upon a Historic Report completed by *Archives and Architecture* in October 2016, and a Cultural Resources Literature Review prepared by *Holman & Associates* in December 2016. A copy of the historic report is included in Appendix B of this document. A copy of literature review is on file at the City of San José Department of Planning, Building, and Code Enforcement.

4.5.1 Setting

4.5.1.1 *Prehistoric Period*

Native Americans occupied Santa Clara Valley and the greater Bay Area for more than 5,000 years. The exact time period of the Ohlone (originally referred to as Costanoan) migration into the Bay Area is debated by scholars. Dates of the migration range between 3000 B.C. and 500 A.D. Regardless of the actual time frame of their initial occupation of the Bay Area and, in particular, Santa Clara Valley, it is known that the Ohlone had a well-established population of approximately 7,000 to 11,000 people with a territory that ranged from the San Francisco Peninsula and the East Bay, south through the Santa Clara Valley and down to Monterey and San Juan Bautista.

The Ohlone people practiced hunting, fishing, and collecting seasonal plant and animal resources, including tidal and marine resources from San Francisco Bay. The customary way of living, or lifeway, of the Costanoan/Ohlone people disappeared by about 1810 due to disruption by introduced diseases, a declining birth rate and the impact of the California mission system established by the Spanish in the area in 1777.

Artifacts pertaining to the Ohlone occupation of San José have been found throughout the downtown area, particularly near the Guadalupe River. The physical distance between the project site and Guadalupe River is approximately 0.4 miles. The nearest recorded Native America site is CA-SCL-128/H, which is located approximately 0.25 miles west of the project site.

4.5.1.2 *Mission Period*

Spanish explorers began coming to Santa Clara Valley in 1769. From 1769 to 1776 several expeditions were made to the area during the time which explorers encountered the Native American tribes who had occupied the area since prehistoric times. Expeditions in the Bay Area and throughout California lead to the establishment of the California Missions and, in 1777, the Pueblo de San José de Guadalupe.

The pueblo was originally located near the old San José City Hall. This location was prone to flooding and the pueblo was relocated in the late 1780's or early 1790's south to what is now downtown San José. The current intersection of Santa Clara Street and Market Street in downtown San José was the center of the second pueblo. The second pueblo is located approximately 0.6 miles northwest of the project site.

4.5.1.3 *Post-Mission Period to Mid-20th Century*

In the mid-1800's, San José began to be redeveloped as America took over the territory from Mexico and new settlers began to arrive in California as a result of the gold rush and the expansion of business opportunities in the west. By 1886, five single-family houses facing South Second Street and four single-family houses facing South Third Street were shown on-site. No buildings faced East San Carlos Street. By 1891, the single-family houses facing South Second Street had some minor architectural additions and the three southern houses on South Third Street remained. In addition, one house was constructed facing East San Carlos Street. By 1915, the project area changed. There were two-story houses, with one retaining an outhouse, on both ends on the east side of South Second Street. Three new two-story apartments were constructed in between the two-story houses. A two-story apartment, two two-story houses, a 1½-story house, a house with a windmill and tank in the rear, and a two-story flat were constructed on South Third Street.

The structures on-site were constructed by 1948 and 1962.

4.5.1.4 *Subsurface Resources*

In December 2016, *Holman & Associates* completed a literature review to identify potential archaeological deposits below the ground surface in the immediate project vicinity. No cultural resources have been recorded within the project area. Although no cultural resources have been recorded, it was determined that there is a low to moderate potential for Native American deposits and a moderate to high potential for historic era deposits.

4.5.1.5 *Historic Structures – Regulatory Framework*

Below is an overview of criteria used to assess the historic significance and eligibility of a building, structure, object, site or district for listing in the National Register of Historic Places (NRHP), the California Register of Historical Resources (CRHR), and the City of San José Historic Resources Inventory.

National Criteria

The NRHP is the nation's most comprehensive list of historic resources and includes historic resources significant in American history, architecture, archeology, engineering and culture, at the local, State and National level. National Register Bulletin Number 15, *How to Apply the National Register Criteria for Evaluation*, describes the Criteria for Evaluation as being composed of two factors. First, the property must be "associated with an important historic context," and second the property must retain integrity of those features necessary to convey its significance.

The National Register identifies four possible context types or criteria, at least one of which must be applicable at the National, State, or local level. As listed under Section 8, "Statement of Significance," of the National Register of Historic Places Registration Form, these are:

A. Property is associated with events that have made a significant contribution to the broad patterns of our history.
B. Property is associated with the lives of persons significant in our past.

C. Property embodies the distinctive characteristics of a type, period, or method of construction or represents the work of a master, or possesses high artistic values, or represents a significant and distinguishable entity whose components lack individual distinction.
D. Property has yielded, or is likely to yield, information important to prehistory or history.

State of California Criteria

The California Office of Historic Preservation's Technical Assistance Series #6, *California Register and National Register: a Comparison*, outlines the differences between the federal and state processes. The context types to be used when establishing the significance of a property for listing on the California Register of Historical Resources are very similar, with emphasis on local and State significance. They are:

1. It is associated with events that have made a significant contribution to the broad patterns of local or regional history, or the cultural heritage of California or the United States; or
2. It is associated with the lives of persons important to local, California, or national history; or
3. It embodies the distinctive characteristics of a type, period, or method of construction or represents the work of a master, or possesses high artistic values; or
4. It has yielded, or is likely to yield, information important to prehistory or history of the local area, California, or the nation.

City of San José Criteria for Local Significance

In accordance with the City of San José's Historic Preservation Ordinance (Chapter 13.48 of the Municipal Code), a resource qualifies as a City Landmark if it has "special historical, architectural, cultural, aesthetic or engineering interest or value of an historic nature" and is one of the following resource types:

1. An individual structure or portion thereof;
2. An integrated group of structures on a single lot;
3. A site, or portion thereof; or
4. Any combination thereof.

The ordinance defines the term "historical, architectural, cultural, aesthetic, or engineering interest or value of an historic nature' as deriving from, based on, or related to any of the following factors:

1. Identification or association with persons, eras or events that have contributed to local, regional, state or national history, heritage or culture in a distinctive, significant or important way;

2. Identification as, or association with, a distinctive, significant or important work or vestige:

    a. Of an architectural style, design or method of construction;
    b. Of a master architect, builder, artist or craftsman;
    c. Of high artistic merit;
    d. The totality of which comprises a distinctive, significant or important work or vestige whose component parts may lack the same attributes;
    e. That has yielded or is substantially likely to yield information of value about history,

architecture, engineering, culture or aesthetics, or that provides for existing and future generations an example of the physical surroundings in which past generations lived or worked; or

f. That the construction materials or engineering methods used in the proposed landmark are unusual or significant of uniquely effective.

3. The factor of age alone does not necessarily confer a special historical, architectural, cultural, aesthetic, or engineering significance, value or interest upon a structure or site, but it may have such effect if a more distinctive, significant or important example thereof no longer exists (Section 13.48.020 A).

   The ordinance also provides a designation of a district: "a geographically definable area of urban or rural character, possessing a significant concentration or continuity of site, building, structures or objects unified by past events or aesthetically by plan or physical development (Section 13.48.020 B).

Any potentially historic property can be nominated for designation as a city landmark by the City Council, the Historic Landmarks Commission or by application of the owner or the authorized agent of the owner of the property for which designation is requested.

Based upon the criteria of the City of San José Historic Preservation Ordinance, the San José Historic Landmarks Commission established a quantitative process, based on the work of Harold Kalman (1980), by which historical resources are evaluated for varying levels of significance. This historic evaluation criterion, and the related Evaluation Rating Sheets, is utilized within the Guidelines for Historic Reports published by the City's Department of Planning, Building and Code Enforcement, as last revised on February 26, 2010.

The "Historic Evaluation Sheet" reflects the historic evaluation criteria for the Registers as well as the City's Historic Preservation Ordinance, and analyzes resources according to the following criteria:

- Visual quality/design
- History/association
- Environment/context
- Integrity
- Reversibility

A rating with numerical "points" is assigned by a qualified evaluator according to the extent to which each building meets the criteria listed above.

33 and above points Structure of Merit (SM)
1-32 points Evaluated and found to be non-significant

The numerical rating system is not used to determine eligibility of a property for City Landmark designation.

4.5.1.6 *Existing Structures on the Project Site*

Tech Shop

The one-story vernacular commercial building, located at 300 South Second Street, was built in 1948 by the architectural firm of Binder & Curtis. The walls along the street frontages are segmented horizontally with vertical post-like metal cladding, which were likely added when the building was remodeled. A recent remodel of the building includes texturizing of the concrete walls along the street frontages and the addition of a large applied molding element on the parapets. The side entry once had a metal canopy that extended along the building and across the parking area eastward to the property edge; however, it is unknown when the canopy was removed.

The building was constructed by the Renzel Family on land originally owned by Conrad and Elizabeth Renzel. The building was intended to be an expansion site for the Hale Bros. Department Store located at the southeast corner of South First Street and East San Carlos Street. While the building is one-story, the intent was to eventually expand to two stories, which did not happen. The Renzel's grandson, Ernest H. Renzel Jr. (1907-2007) was a person of local importance. As a member of the Chamber of Commerce (1938), Ernest Renzel Jr. advocated for construction of Mineta San José International Airport and led a voter campaign in 1940 to fund the acquisition of land for the future airport. Ernest Renzel Jr. was elected to the City Council and appointed City Council President (equivalent to Mayor) in 1944 and held office until 1948. He then continued his involvement with the airport, serving on the Airport Commission for 28 years. While Ernest Renzel Jr. was instrumental in San José's growth during World War II, his achievements occurred largely before construction of the subject building and his connection to the building is minimal. The building relevant to his life's work, his house, was landmarked in 2008 and the airfields at Mineta San José International Airport are named after him.

The historical setting of the project area has been changed substantially over time and is lacking in compatibility with the mid-century era in which the building was constructed. In addition, the building did not contribute to the broader development patterns of the time. As such, the building is not be eligible for the CRHR under Criterion 1.

The building was constructed by the Renzel Family, of which Ernest Renzel Jr was a prominent local person. Although this building has a direct connection to him and his family, this connection is of secondary importance. Therefore, the building is not eligible for the CRHR under Criterion 2.

Due to remodeling of the structure, the building has lost its historic integrity and no longer retains its original Mid-century Modern character. As a result, the building is not eligible for the CRHR under

Criterion 3. Lastly, the building has not yielded, nor is it likely to yield, information important to prehistory or history of the local area, California, or the nation. Therefore, the building is not eligible for the CRHR under Criterion 4.

City of San José – Local Significance

An evaluation of the building found that the structure was eligible for listing on the City of San José's local resource inventory as a Structure of Merit.

Former McDonald's

The one-story building located at the northeastern corner of the site was constructed in 1962 and is currently vacant.

The City of San José Modernism Historic Context Statement identifies six Mid-century Modern commercial/civic building styles: Commercial Modern, Corporate Modern, New Formalism, Googie, Brutalism, and Organic which were prevalent between 1945 and 1975. While the former McDonalds building does not specifically fit into one of the six architectural styles, it most resembles the Commercial Modern style. This style is characterized by horizontal, angular massing, flat or low pitched roofs, extensive use of glass (commonly set within flush-mounted steel or aluminum frames), large commercial advertising mounted directly to the building, larger, free-standing advertising signs located prominently along the road, and use of modern cladding such as Roman brick, porcelain enamel, ceramic tile, prismatic glass, and glass block.

The building does have a flat roof, elements of horizontal massing, and glass blocks and tile around both entrances. The windows are, however, somewhat limited relative to the overall surface area of the primary facades. It is unclear if the original windows and doors are still extant as the building is currently boarded up. It appears as if another building was originally located adjacent to the eastern façade and has since been removed.

Additionally, the building looks as if it has been updated over time and all franchise signs and architecture have been removed from the building and the site. The building is not listed in the City's Historic Resources Inventory.

The building is not a significant example of Mid-century architecture and would not qualify for the CRHR or the City's Historic Resources Inventory under any criteria.

4.5.1.7 *Applicable Cultural Resources Regulations and Policies in the General Plan*

The Envision San José 2040 General Plan includes policies applicable to all development projects in San José. The following policies are specific to cultural resources and are applicable to the proposed project.

Policy ER-10.1: For proposed development sites that have been identified as archaeologically or paleontologically sensitive, require investigation during the planning process in order to determine whether potentially significant archaeological or paleontological information may be affected by the project and then require, if needed, that appropriate mitigation measures be incorporated into the project design.

Policy ER-10.2: Recognizing that Native American human remains may be encountered at unexpected locations, impose a requirement on all development permits and tentative subdivision maps that upon discovery during construction, development activity will cease until professional archaeological examination confirms whether the burial is human. If the remains are determined to be Native American, applicable state laws shall be enforced.

Policy ER-10.3: Ensure that City, State, and Federal historic preservation laws, regulations, and codes are enforced, including laws related to archaeological and paleontological resources, to ensure the adequate protection of historic and pre-historic resources.

4.5.2 Checklist and Discussion of Impacts

	New Potentially Significant Impact	New Less Than Significant With Mitigation Incorporated	New Less Than Significant Impact	Same Impact as "Approved Project"	Less Impact than "Approved Project"	Checklist Source(s)
Would the project:						
a) Cause a substantial adverse change in the significance of an historical resource as defined in CEQA Guidelines Section 15064.5?	☐	☐	☐	☒	☐	1-4,9
b) Cause a substantial adverse change in the significance of an archaeological resource as defined in CEQA Guidelines Section 15064.5?	☐	☐	☐	☒	☐	1-4,10
c) Directly or indirectly destroy a unique paleontological resource or site, or unique geologic feature?	☐	☐	☐	☒	☐	1-4
d) Disturb any human remains, including those interred outside of formal cemeteries?	☐	☐	☐	☒	☐	1-4,9

Similar to the site development evaluated in the General Plan EIR and Downtown Strategy EIR, the proposed project would result in less than significant cultural resources impacts.

4.5.2.1 *Impacts to Historic Structures (Checklist Question a)*

The project site is developed with two one-story commercial buildings. The TechShop was constructed in 1948 and the former restaurant was constructed in 1962. Although the existing buildings on-site are over 50 years old, the buildings would not be eligible for listing in the NRHP or CRHR. The TechShop building would be eligible for listing on the City of San José Historic Resources Inventory as a Structure of Merit, but that does not raise the building to the level of a significant resource. While the building received enough tally points to be listed on the City of San José Historic Resource Inventory as a Structure of Merit, the building has lost its historic integrity and the original design is no longer understandable as an artistic work from the early modern movement of architecture. Therefore, the project would have a less than significant impact to historic structures. **[Same Impact as Approved Project (Less Than Significant Impact)]**

4.5.2.2 *Impacts to Subsurface Cultural Resources (Checklist Questions b – d)*

Prehistoric and Historic Resources

Based on the literature review completed for the project area, there are no recorded prehistoric or historic archaeological deposits on-site, and no cultural resources were recorded during previous development on-site or in the immediate project area. The project site is located approximately 0.4 miles east of Guadalupe River, which is considered a highly sensitivity area for prehistoric and historic resources. The site itself has a low to moderate potential for prehistoric resources and a moderate to high potential for historic resources.

Impact CUL-1: Excavation of the site could result in the loss of all yet unknown subsurface historic resources on the project site. **(Significant Impact)**

Mitigation and Avoidance Measures

The CEQA Guidelines provide detailed direction on the requirements for avoiding or mitigating significant impacts to historical and archaeological resources. Section 15064.5(b)(4) of the Guidelines states that a lead agency shall identify mitigation measures and ensure that the adopted measures are fully enforceable through permit conditions, agreements, or other measures. In addition, CEQA Guidelines Section 15126.4(b)(3) states that public agencies should, whenever feasible, seek to avoid damaging effects on any historical resources of an archaeological nature. Preservation in place is the preferred manner of avoiding impacts to archaeological sites, although data recovery through excavation is acceptable if preservation is not feasible. If data recovery through excavation is the only feasible mitigation, a data recovery plan, which makes provisions for adequately recovering the scientifically consequential information from and about the historic resource, needs to be prepared and adopted prior to any excavation being undertaken.

MM CUL 1-1: Preliminary Investigation. Consistent with City policy, the project proponent shall be required to complete subsurface testing to determine the extent of possible resources on-site. Subsurface testing shall be completed by a qualified archaeologist and shall be focused on the area where back fences of

the former residences on-site separated the South Second Street and South Third Street lots. The results of the preliminary field investigation and program shall be submitted to the Supervising Environmental Planner and Historic Preservation Officer of the City of San José Department of Planning, Building, and Code Enforcement for review and approval prior to issuance of any grading permit. Based on the findings of the subsurface testing, an archaeological resources treatment plan as described in MM CUL-1.2) shall be prepared by a qualified archaeologist if necessary.

MM CUL 1-2: Treatment Plan. The treatment plan shall reflect permit-level detail pertaining to depths and locations of all ground disturbing activities. The treatment plan shall be prepared and submitted to the Supervising Environmental Planner and the Historic Preservation Officer of the City of San José Department of Planning, Building, and Code Enforcement prior to approval of any grading permit. The treatment plan shall contain, at a minimum:

- Identification of the scope of work and range of subsurface effects (including location map and development plan), including requirements for preliminary field investigations.
- Description of the environmental setting (past and present) and the historic/prehistoric background of the parcel (potential range of what might be found).
- Development of research questions and goals to be addressed by the investigation (what is significant vs. what is redundant information).
- Detailed field strategy to record, recover, or avoid the finds and address research goals.
- Analytical methods.
- Report structure and outline of document contents.
- Disposition of the artifacts.
- Appendices: all site records, correspondence, and consultation with Native Americans, etc.

Implementation of the plan, by a qualified archaeologist, shall be required prior to the issuance of demolition and grading permits. The treatment plan shall utilize data recovery methods to reduce impacts on subsurface resources.

MM CUL 1-3: Evaluation. The Project proponent shall notify the Supervising Environmental Planner and Historic Preservation Officer of the City of San José Department of Planning, Building, and Code Enforcement of any finds during the preliminary field investigation, grading, or other construction activities. Any historic or prehistoric material identified in the project area during the preliminary field investigation and during grading or other construction activities shall be evaluated for eligibility for listing in the California Register of Historic Resources as determined by the California Office of Historic Preservation. Data recovery methods may include, but are not limited to, backhoe trenching, shovel test units, hand augering, and hand-excavation.

The techniques used for data recovery shall follow the protocols identified in the approved treatment plan. Data recovery shall include excavation and exposure of features, field documentation, and recordation. All documentation and recordation shall be submitted to the Northwest Information Center (NWIC).

In addition to the archaeological resources treatment plan outlined above, the following measures (consistent with the mitigation measures outlined in the Downtown Strategy EIR) are included in the project to further reduce impacts to subsurface cultural resources.

MM CUL 1-4: In the event that prehistoric or historic resources are encountered during excavation and/or grading of the site, all activity within a 50-foot radius of the find shall be stopped, the Supervising Environmental Planner and Historic Preservation Officer of the City of San José Department of Planning, Building and Code Enforcement shall be notified, and a qualified archaeologist will examine the find. Project personnel shall not collect or move any cultural material.

The archaeologist shall 1) evaluate the find(s) to determine if they meet the definition of a historical or archaeological resource; and (2) make appropriate recommendations regarding he disposition of such finds prior to issuance of any occupancy permits. If the finds do not meet the definition of a historical or archaeological resources, no further study or protection is necessary prior to project implementation. If the find(s) does meet the definition of a historical or archaeological resource, then it shall be avoided by project activities. Project personnel shall not collect or move any cultural material. Fill soils that may be used for construction purposes shall not contain archaeological materials.

If avoidance is not feasible, adverse effects to such resources shall be mitigated in accordance with the recommendations of the archaeologist. Recommendations shall include, but are not limited to, collection, recordation, and analysis of any significant cultural materials. Data recovery methods may include, but are not limited to, backhoe trenching, shovel test units, hand augering, and hand-excavation. The techniques used for data recovery shall follow the protocols identified in the approved treatment plan per MM CUL-1.2.

Data recovery shall include excavation and exposure of features, field documentation, and recordation. A report of findings documenting any data recovery shall be submitted to the Supervising Environmental Planner and Historic Preservation Officer of the City of San José Department of Planning, Building and Code Enforcement and the Northwest Information Center prior to issuance of occupancy permits.

MM CUL 1-5: Human Remains. If any human remains are found during any field investigations, grading, or other construction activities, all provisions of California Health and Safety Code Sections 7054 and 7050.5 and Public Resources Code Sections 5097.9 through 5097.99, as amended per Assembly Bill 2641, shall be followed. In the event of the discovery of human remains during construction, there shall be no further excavation or disturbance of the site or any nearby area reasonably suspected to overlie adjacent remains. The project applicant shall immediately notify the Supervising Environmental Planner of the City of San José Department of Planning, Building, and Code Enforcement and the qualified archaeologist, who will then notify the Santa Clara County Coroner. The Coroner will make a determination as to whether the remains are Native American.

If the remains are believed to be Native American, the Coroner will contact the NAHC within 24 hours. The NAHC will then designate a Most Likely Descendant (MLD). The MLD will inspect the remains and make a recommendation on the treatment of the remains and associated artifacts.

If one of the following conditions occurs, the landowner or his authorized representative shall work with the Coroner to reinter the Native American human remains and associated grave goods with appropriate dignity in a location not subject to further subsurface disturbance:

- The NAHC is unable to identify a MLD or the MLD failed to make a recommendation within 24 hours after being notified by the NAHC.
- The MLD identified fails to make a recommendation; or
- The landowner or his authorized representative rejects the recommendation of the MLD, and the mediation by the NAHC fails to provide measures acceptable to the landowner.

With implementation of these measures, impacts to unknown subsurface cultural resources would be reduce to a less than significant level. **[Same Impact as Approved Project (Less Than Significant Impact With Mitigation)]**

Paleontological Resources

Paleontological resources are the fossilized remains of organisms from prehistoric environments found in geologic strata. Most of the City is situated on alluvial fan deposits of Holocene age that have a low potential to contain significant nonrenewable paleontological resources; however, older Pleistocene sediments present at or near the ground surface at some locations have high potential to contain these resources. These older sediments, often found at depths of greater than 10 feet below the ground surface, have yielded the fossil remains of plants and extinct terrestrial Pleistocene vertebrates. The General Plan EIR found the project site to have a high sensitivity (at depth) for paleontological resources.

The project proposes one level of below-grade parking and has a low potential for encountering paleontological resources during construction, due to the shallow excavation proposed. Construction

activities may result in the accidental destruction and disturbance of paleontological resources and would result in a significant impact to paleontological resources. The City would require the project to comply with all applicable City regulatory programs pertaining to unknown buried paleontological resources as a condition of project approval, including the following Standard Permit Conditions for avoiding and reducing construction related paleontological resources impacts.

Standard Permit Conditions

- The project proponent shall ensure all construction personnel receive paleontological resources awareness training that includes information on the possibility of encountering fossils during construction; the types of fossils likely to be seen, based on past finds in the project area; and proper procedures in the event fossils are encountered. Worker training shall be prepared and presented by a qualified paleontologist.

- If vertebrae fossils are discovered during construction, all work on the site shall stop immediately until a qualified professional paleontologist can assess the nature and importance of the find and recommend appropriate treatment. Treatment may include preparation and recovery of fossil materials so that they can be housed in an appropriate museum or university collection and may also include preparation of a report for publication describing the finds. The project applicant shall be responsible for ensuring that the recommendations of the paleontological monitor regarding treatment and reporting are implemented.

Because the proposed project would comply with the applicable City policies and regulatory programs related to paleontological resources including the City's Standard Permit Conditions, implementation of the proposed project would have a less than significant paleontological resources impact. **[Same Impact as Approved Project (Less Than Significant Impact)]**

4.5.3 Conclusion

Implementation of the proposed project would have a less than significant impact on historic buildings. **[Same Impact as Approved Project (Less Than Significant Impact)]**

With implementation of the above measures and recommendations, impacts to unknown subsurface cultural resources would be less than significant. **[Same Impact as Approved Project (Less Than Significant Impact With Mitigation)]**

The proposed project would be consistent with applicable City policies and regulatory programs and, as a result, would have a less than significant impact on paleontological resources impact. **[Same Impact as Approved Project (Less Than Significant Impact)]**

4.6 GEOLOGY AND SOILS

The following discussion is based upon a Soil Resource Report generated from the Natural Resources Conservation Service's website in August 2016 and a Geotechnical Investigation prepared by *Cornerstone Earth Group* in June 2016. A copy of the reports are attached as Appendix C and Appendix D, respectively.

4.6.1 Setting

4.6.1.1 *Geology and Soils*

The majority of the City of San José is located within the Santa Clara Valley, a broad alluvial plain with alluvial soils extending several hundred feet below ground surface. The project site subsurface is comprised of sand, silt, and clay sediments.

Expansive soils have a high shrink-swell potential that can impact the structural integrity of buildings and other structures. The soil in San José ranges from moderate to highly expansive. The soils on-site is comprised primarily of the Elpaloalto complex and have a moderate expansion potential.[8] The potential for erosion or landslide on or adjacent to the site is low.

Based on the Phase I ESA prepared by *Cornerstone Earth Group*, the depth to groundwater is approximately 10 to 15 feet below ground surface (bgs).

4.6.1.2 *Seismicity and Seismic Hazards*

Table 4.6-1: Active Faults Near the Project Site

Fault	Distance from Site
Hayward	5.5 miles
Calaveras	8.3 miles
San Andreas	12.0 miles

The project area is not located within the Alquist-Priolo Earthquake Fault Zone, the Santa Clara County Fault Hazard Zone, or the City of San José Potential Hazard Zone,[9] and no active faults have been mapped on the project site. As a result, the risk of fault rupture is low. Faults in the region are capable of generating earthquakes of magnitude 6.7 or higher, and strong to very strong ground shaking would be expected to occur at the project site during a major earthquake on one of the nearby faults. Active or potentially active faults near the project site, include the Hayward, Calaveras, and San Andres faults. The distances to these faults are shown in Table 4.6-1.

4.6.1.3 *Liquefaction and Lateral Spreading*

Liquefaction

Liquefaction occurs when water-saturated soils lose structural integrity due to seismic activity. Soils

[8] Soil Survey Staff. *Custom Soil Resource Report for Santa Clara Area, California, Western Part*. 2016. Available at: <http://websoilsurvey.nrcs.usda.gov/>

[9] Santa Clara County, *Santa Clara County Geologic Hazard Zones*, Map 20. <https://www.sccgov.org/sites/dpd/DocsForms/Documents/GEO_GeohazardATLAS.pdf> Accessed August 25, 2016.

that are most susceptible to liquefaction are loose to moderately dense, saturated granular soils with poor drainage. According to the Santa Clara County Geologic Hazard Zone Map, the project area is within a State-designated Liquefaction Hazard Zone as well as a Santa Clara County Liquefaction Hazard Zone.[10] The project site is not located within a potential landslide zone.

Lateral Spreading

Lateral spreading is a type of ground failure related to liquefaction. It consists of the horizontal displacement of flat-lying alluvial material toward an open area, such a steep bank of a stream channel. Areas of San José most prone to lateral spreading include lands adjacent to Guadalupe River and Coyote Creek. The physical distance between the proposed project site and Guadalupe River is approximately 0.4 miles. At this distance, the potential for lateral spreading on-site is low.

4.6.1.4 *Applicable Geologic Regulations and Policies*

The Envision San José 2040 General Plan includes policies applicable to the proposed project.

Policy EC-3.1: Design all new or remodeled habitable structures in accordance with the most recent California Building Code and California Fire Code as amended locally and adopted by the City of San José, including provisions regarding lateral forces.

Policy EC-4.1: Design and build all new or remodeled habitat structures in accordance with the most recent California Building Code and municipal code requirements as amended and adopted by the City of San José, including provisions for expansive soil, and grading and storm water controls.

Policy EC-4.2: Approve development in areas subject to soils and geologic hazards, including unengineered fill and weak soils and landslide-prone areas, only when the severity of hazards have been evaluated and if shown to be required, appropriate mitigation measures are provided. New development proposed within areas of geologic hazards shall not be endangered by, nor contribute to, the hazardous conditions on the site or on adjoining properties. The City of San José Geologist shall review and approve geotechnical and geological investigation reports for projects within these areas as part of the project approval process.

Policy EC-4.4: Require all new development to conform to the City of San José's Geologic Hazard Ordinance.

Policy EC-4.5: Ensure that any development activity that requires grading does not impact adjacent properties, local creeks, and storm drainage systems by designing and building the site to drain properly and minimize erosion. An Erosion Control Plan is required for all private development projects that have a soil disturbance of one acre or more, adjacent to a creek/river, and/or are located in hillside areas. Erosion Control Plans are also required for any grading occurring between October 15 and April 15.

Action EC-4.11: Require the preparation of geotechnical and geological investigation reports for projects within areas subject to soils and geologic hazards, and require review and implementation of mitigation measures as part of the project approval process.

[10] Cornerstone Earth Group. *Geotechnical Investigation*. – 300 South 2nd Street Student Housing. June 30, 2016.

Action EC-4.12: Require review and approval of grading plans and erosion control plans (if applicable) prior to issuance of grading permits by the Director of Public Works.

Policy ES-4.9: Permit development only in those areas where potential danger to health, safety, and welfare of the persons in that area can be mitigated to an acceptable level.

4.6.2 Checklist and Discussion of Impacts

	New Potentially Significant Impact	New Less Than Significant With Mitigation Incorporated	New Less Than Significant Impact	Same Impact as "Approved Project"	Less Impact than "Approved Project"	Checklist Source(s)
Would the project:						
a) Expose people or structures to potential substantial adverse effects, including the risk of loss, injury, or death involving:						
1. Rupture of a known earthquake fault, as described on the most recent Alquist-Priolo Earthquake Fault Zoning Map issued by the State Geologist for the area or based on other substantial evidence of a known fault (refer to Division of Mines and Geology Special Publication 42.)?	☐	☐	☐	☒	☐	1-4
2. Strong seismic ground shaking?	☐	☐	☐	☒	☐	1-4
3. Seismic-related ground failure, including liquefaction?	☐	☐	☐	☒	☐	1-4
4. Landslides?	☐	☐	☐	☒	☐	1-4
b) Result in substantial soil erosion or the loss of topsoil?	☐	☐	☐	☒	☐	1-4
c) Be located on a geologic unit or soil that is unstable, or that will become unstable as a result of the project, and potentially result in on- or off-site landslide, lateral spreading, subsidence, liquefaction or collapse?	☐	☐	☐	☒	☐	1-4,11

	New Potentially Significant Impact	New Less Than Significant With Mitigation Incorporated	New Less Than Significant Impact	Same Impact as "Approved Project"	Less Impact than "Approved Project"	Checklist Source(s)
Would the project:						
d) Be located on expansive soil, as defined in Table 18-1-B of theUniform Building Code (1994), creating substantial risks to life or property?	☐	☐	☐	☒	☐	1-4,11
e) Have soils incapable of adequately supporting the use of septic tanks or alternative wastewater disposal systems where sewers are not available for the disposal of wastewater?	☐	☐	☐	☒	☐	1

In conformance with the Downtown Strategy 2000 EIR, General Plan EIR, and current standard practices in the City of San José, the project would be required to design and construct new buildings in conformance with California Building Code requirements and based upon a geotechnical investigation that addresses potential liquefaction and other soil and seismic hazards specific to the site.

4.6.2.2 *Geologic Impacts (Checklist Question a and c – e)*

The project site is in the seismically active San Francisco Bay Area which has a 72 percent probability of experiencing at least one magnitude 6.7 earthquake during the next 30 years.[11] Earthquake faults in the region, specifically the San Andreas, Hayward, and Calaveras faults, are capable of generating earthquakes larger than 7.0 in magnitude. The project site would experience intense ground shaking in the event of a large earthquake.

As proposed, the project would include excavation to a depth of approximately 10 feet. Because excavation activities on-site may encounter groundwater, the proposed project would require dewatering during construction. Please refer to *Section 4.8 Hazards and Hazardous Materials* for more information. In addition, the below-grade parking structure could be subject to hydrostatic pressure from the shallow groundwater aquifer. Hydrostatic pressure generated by ground shaking can result in the formation of sand boils or mud spouts, and/or seepage of water through ground cracks.

The proposed project would be built and maintained in accordance with a site-specific geotechnical report (as required by the Downtown Strategy EIR*)* and applicable regulations including the 2016 California Building Code which contains the regulations that govern the construction of structures in California. The site-specific geotechnical report would address the potential for soil expansion, settlement, shallow groundwater, effects of site dewatering, and other site specific issues.

[11] U.S. Geological Survey. "Earthquake Outlook for the San Francisco Bay Region 2014-2043". Fact Sheet 2016–3020. 2016. Available at: <https://pubs.er.usgs.gov/publication/fs20163020>. Accessed August 25, 2016.

Because the proposed project would comply with the regulations identified in the General Plan EIR and the standard permit conditions, the project would not result in a significant geologic impact or exacerbate existing geologic conditions on adjacent sites. **[Same Impact as the Approved Project (Less Than Significant Impact)]**

The project site and surrounding areas are relatively flat and have a moderate soil expansion potential and a low potential for lateral spreading during large seismic events. Hazards associated with expansive soils would be reduced and managed consistent with the City adopted regulations and policies, in combination with state building regulations. The Downtown Strategy EIR concluded that new development associated with the Downtown Strategy plan would be subject to seismic-related hazards. Nevertheless, development of the project site would not expose adjacent or nearby properties to landslide or erosion related hazards. **[Same Impact as Approved Project (Less Than Significant Impact)]**

The project site is located within an urban area of San José where sewers are available to dispose of wastewater from the project site. Therefore, the site would not need to support septic tanks or alternative wastewater disposal systems. **[Same Impact as Approved Project (No Impact)]**

4.6.2.3 *Erosion Impacts* *(Checklist Question b)*

Ground disturbance would be required for grading and construction of the proposed project. Ground disturbance would expose soils and increase the potential for wind or water-related erosion and sedimentation until construction is completed.

The City's National Pollutant Discharge Elimination Systems (NPDES) Municipal Permit, urban runoff policies, and the Municipal Code are the primary means of enforcing erosion control measures through the grading and building permit process. The General Plan EIR concluded that with the regulatory programs currently in place, the probable impacts of accelerated erosion during construction would be less than significant. The City would require the project to comply with all applicable City regulatory programs pertaining to construction related erosion including the following Standard Permit Conditions for avoiding and reducing construction related erosion impacts.

Standard Permit Conditions

- All excavation and grading work shall be scheduled in dry weather months or construction sites will be weatherized.
- Stockpiles and excavated soils shall be covered with secured tarps or plastic sheeting.
- Ditches shall be installed, if necessary, to divert runoff around excavations and graded areas.

Because the proposed project would comply with the applicable City regulatory programs related to erosion, implementation of the proposed project would have a less than significant erosion impact. **[Same Impact as Approved Project (Less Than Significant Impact)]**

4.6.2.4 *Existing Geologic Conditions Affecting the Project Site*

Based upon the December 2015 California Supreme Court BIA vs. BAAQMD decision, the issues of environmental conditions affecting a project is no longer required under CEQA, but is included below to inform the planning process as to how the project complies with relevant local policies/regulations that protect sensitive land uses from existing hazards.

The policies of the Envision San José 2040 General Plan have been adopted for the purpose of avoiding or mitigating environment effects resulting from planned development within the City. Policy EC-4.2 states that development is allowed in areas subject to soils and geologic hazards, including unengineered fill and weak soils and landslide-prone areas, only when the severity of hazards have been evaluated and if shown to be required, appropriate mitigation measures are provided. New development proposed within areas of geologic hazards shall not be endangered by, nor contribute to, the hazardous conditions on the site or on adjoining properties. Pursuant to the Downtown Strategy EIR, prior to issuance of site-specific grading or building permits, a design-level geotechnical investigation[12] shall be prepared and submitted to the City of San José Public Works department for review and confirmation that the proposed development fully complies with the California Building Code and all City policies and ordinances. In addition, Policy EC-4.4 requires all new development to conform to the City of San José's Geologic Hazard Ordinance. To ensure that proposed development sites are suitable, Action EC-4.11 requires the preparation of geotechnical and geological investigation reports for projects within areas subject to soils and geologic hazards, and require review and implementation of mitigation measures as part of the project approval process.

The soils in the project area contain weak soils with moderate expansion potential. The project site could be subject to very strong ground shaking during an earthquake.

The project applicant would be required to submit a design-specific geotechnical report. The proposed project would be built and maintained in accordance with the design-specific geotechnical report and applicable regulations including the most recent California Building Code, which contains the regulations that govern the construction of structures in California. The General Plan EIR concluded that adherence to the California Building Code would reduce seismic related impacts and ensure new development proposed within areas of geologic hazards would not be endangered by the hazardous conditions on the site.

Because the proposed project would comply with the design-specific geotechnical report, the California Building Code, and regulations identified in the General Plan EIR that ensure geologic hazards are adequately addressed, the project would comply with Policies EC-4.2 and EC-4.4.

4.6.3 Conclusion

Development on the project site would have a less than significant geologic impact. **[Same Impact as Approved Project (Less Than Significant Impact)]**

[12] The analysis must conform to the California Division of Mines and Geology (CDMG) recommendations presented in the "Guidelines for Evaluating Seismic Hazards in California." CDMG Special Publication 117. 1997.

Sewers are available to dispose wastewater from the project site and, as a result, the project site would not need to support septic tanks or alternative wastewater disposal systems. **[Same Impact as Approved Project (No Impact)]**

4.7 GREENHOUSE GAS EMISSIONS

4.7.1 Regulatory Background

Unlike emissions of criteria and toxic air pollutants, which have local or regional impacts, emissions of greenhouse gases (GHGs) have a broader, global impact. Global warming is a process whereby GHGs accumulating in the atmosphere contribute to an increase in temperature of the earth's atmosphere. The principal GHGs contributing to global warming and associated climate change are carbon dioxide (CO_2), methane (CH_4), nitrous oxide (N_2O), and fluorinated compounds. Emissions of GHGs contributing to global climate change are attributable in large part to human activities associated with the transportation, industrial/manufacturing, utility, residential, commercial, and agricultural sectors.

4.7.1.1 *Existing On-Site GHG Emissions*

The project site is currently developed with two one-story commercial buildings and surface parking lots. GHG emissions are generated by daily traffic trips to and from the project site.

4.7.2 Regulatory Background

4.7.2.1 *State of California*

Assembly Bill (AB) 32 – The California Global Warming Solutions Act of 2006

California Assembly Bill (AB) 32, the California Global Warming Solutions Act, was signed into law in September 2006. AB 32 requires California to reduce its total GHG emissions to 1990 levels by 2020, which represents about a 30 percent decrease from current levels. In September 2007, the Air Resources Board approved a list of Discrete Early Actions to reduce GHG emissions which includes maximizing energy efficient building and appliance standards, pursuing additional efficiency efforts, and pursuing comparable investment in energy efficiency by all retail providers of electricity in California (including both investor-owned and publicly-owned utilities).

State of California Executive Order S-3-05

Prior to adoption of AB 32, Governor Arnold Schwarzenegger signed Executive Order S-3-05, which established GHG emission reduction targets, created the Climate Action Team and directed the Secretary of CalEPA to coordinate with other state agencies to meet the emission reduction targets. The Executive Order S-03-05 requires statewide reductions in GHG emissions to 80 percent below 1990 by the year 2050.

Senate Bill 375

Senate Bill 375 (SB 375), also known as the Sustainable Communities and Climate Protection Act of 2008, builds on AB 32 by requiring California Air Resources Board (CARB) to develop regional GHG reduction targets to be achieved from the automobile and light truck sectors for 2020 and 2035. Metropolitan planning organizations (for the Bay Area, the Metropolitan Transportation Commission in partnership with the Association of Bay Area Governments) would be required to create Sustainable Community Strategies (SCS) to meet the target emissions reductions as part of the Regional Transportation Plan for that region. The SCS is a mechanism for more effectively linking a

land use pattern and a transportation system together to make travel more efficient and communities more livable. The target for the Bay Area is a seven percent per capita reduction in GHG emissions attributable to automobiles and light trucks by 2020 and a 15 percent per capita reduction by 2035.

4.7.2.2 *Regional and Local Plans*

Bay Area 2010 Clean Air Plan

The Bay Area 2010 Clean Air Plan (2010 CAP) provides an updated comprehensive plan to improve Bay Area air quality and protect public health, taking into account future growth projections to 2035. The *Bay Area 2010 Clean Air Plan* (2010 CAP) addresses air quality impacts with respect to obtaining ambient air quality standards for non-attainment pollutants, reducing exposure of sensitive receptors to TACs, and reducing GHG emissions such that the region can meet AB 32 goals of reducing emissions to 1990 levels by 2020.

The 2010 CAP includes about 55 control measures that are intended to reduce air pollutant emissions in the Bay Area either directly or indirectly. The control measures are divided into five categories: Stationary Source Measures, Mobile Source Measures, Transportation Control Measures, Land Use and Local Impact Measures, and Energy and Climate Measures. Consistency of a project with current control measures is determined by its consistency with the CAP.

BAAQMD CEQA Guidelines

BAAQMD identifies sources of information on potential thresholds of significance and mitigation strategies for operational GHG emissions from land-use development projects in its CEQA Air Quality Guidelines. The BAAQMD CEQA Guidelines also outline a methodology for estimating greenhouse gases.

In jurisdictions where a qualified Greenhouse Gas Reduction Strategy has been reviewed under CEQA and adopted by decision-makers, compliance with the Greenhouse Gas Reduction Strategy would reduce a project's contribution to cumulative greenhouse gas emission impacts to a less than significant level.[13] The BAAQMD CEQA Guidelines also outline a methodology for estimating greenhouse gases.

City of San José Municipal Code

The City's Municipal Code includes the following regulations that would reduce GHG emissions from future development:

- Green Building Regulations for Private Development (Chapter 17.84)
- Water Efficient Landscape Standards for New and Rehabilitated Landscaping (Chapter 15.10)

[13] The required components of a "qualified" Greenhouse Gas Reduction Strategy or Plan are described in both Section 15183.5 of the CEQA Guidelines and the BAAQMD CEQA Air Quality Guidelines (amended 2012).

- Transportation Demand Programs for employers with more than 100 employees (Chapter 11.105)
- Construction and Demolition Diversion Deposit Program (Chapter 9.10)
- Wood Burning Ordinance (Chapter 9.10)

Envision San José 2040 General Plan and Greenhouse Gas Reduction Strategy

The Envision San José 2040 General Plan includes a GHG Reduction Strategy that is designed to help the City sustain its natural resources, grow efficiently, and meet California legal requirements for GHG emissions reduction. Multiple policies and actions in the General Plan have GHG implications including those targeting land use, housing, transportation, water usage, solid waste generation and recycling, and reuse of historic buildings. The policies also include a monitoring component that allows for adaptation and adjustment of City programs and initiatives related to sustainability and associated reductions in GHG emissions. The GHG Reduction Strategy is intended to meet the mandates as outlined in the CEQA Guidelines and the recent standards for "qualified plans" as set forth by BAAQMD.

The GHG Reduction Strategy was approved by the City Council in December 2015. The environmental impacts of the GHG Reduction Strategy were analyzed in the General Plan EIR and a 2015 Supplement to the General Plan EIR. The City's projected emissions and the GHG Reduction Strategy are consistent with the measures necessary to meet state-wide 2020 goals established by AB 32 and addressed in the Climate Change Scoping Plan. Measures have not been identified that would ensure GHG emissions would be consistent with state-wide 2050 goals, however, and the City adopted overriding considerations for identified future impacts associated with buildout of the City's General Plan.

4.7.2.3 *Applicable Greenhouse Gas Regulations and Policies*

The Envision San José 2040 General Plan includes policies applicable to the proposed project. These policies are also described within the City's GHG Reduction Strategy.

Policy MS-2.3: Encourage consideration of solar orientation, including building placement, landscaping, design, and construction techniques for new construction to minimize energy consumption.

Policy MS-2.11: Require new development to incorporate green building practices, including those required by the Green Building Ordinance. Specifically, target reduced energy use through construction techniques (e.g., design of building envelopes and systems to maximize energy performance), through architectural design (e.g. design to maximize cross ventilation and interior daylight) and through site design techniques (e.g. orienting buildings on sites to maximize the effectiveness of passive solar design).

Policy MS-14.4: Implement the City's Green Building Policies so that new construction and rehabilitation of existing buildings fully implements industry best practices, including the use of optimized energy systems, selection of materials and resources, water efficiency, sustainable site

selection, passive solar building design, and planting of trees and other landscape materials to reduce energy consumption.

Policy CD-2.10: Recognize that finite land area exists for development and that density supports retail vitality and transit ridership. Use land regulations to require compact, low-impact development that efficiently uses land planned for growth, particularly for residential development which tends to have a long life-span. Strongly discourage small-lot and single-family detached residential product types in growth areas

Policy CD-3.2: Prioritize pedestrian and bicycle connections to transit, community facilities (including schools), commercial areas, and other areas serving daily needs. Ensure that the design of new facilities can accommodate significant anticipated future increases in bicycle and pedestrian activity.

Policy CD-5.1: Design areas to promote pedestrian and bicycle movements and to facilitate interaction between community members and to strengthen the sense of community.

Policy LU-5.4: Require new commercial development to facilitate pedestrian and bicycle access through techniques such as minimizing building separation from public sidewalks; providing safe, accessible, convenient, and pleasant pedestrian connections; and including secure and convenient bike storage.

Policy TR-2.18: Provide bicycle storage facilities as identified in the Bicycle Master Plan.

Policy TR-3.3: As part of the development review process, require that new development along existing and planned transit facilities consist of land use and development types and intensities that contribute toward transit ridership. In addition, require that new development is designed to accommodate and to provide direct access to transit facilities.

4.7.3 Checklist and Discussion of Impacts

	New Potentially Significant Impact	New Less Than Significant With Mitigation Incorporated	New Less Than Significant Impact	Same Impact as "Approved Project"	Less Impact than "Approved Project"	Checklist Source(s)
Would the project:						
a) Generate greenhouse gas emissions, either directly or indirectly, that may have a signifint impact on the environment?	☐	☐	☐	☒	☐	1-4
b) Conflict with an applicable plan, policy or regulation adopted for the purpose of reducing the emissions of greenhouse gases?	☐	☐	☐	☒	☐	1-4

4.7.3.1 *Greenhouse Gas Emissions Construction Impacts (Checklist Question a)*

The proposed project would result in a temporary increase in GHG emissions associated with construction activities, including operation of construction equipment and emissions from construction workers' personal vehicles traveling to and from the project site. Construction related GHG emissions vary depending on the level of activity, length of the construction period, specific construction operations, types of equipment, and number of personnel. Because construction would be temporary (approximately 29 months) and would not result in a permanent increase in emissions, the project would not interfere with the implementation of AB 32. **[Same Impact as Approved Project (Less Than Significant Impact)]**

4.7.3.2 *Consistency with the San José Greenhouse Gas Reduction Strategy/Operational Impacts (Checklist Questions a and b)*

Per CEQA Guidelines Section 15064(b), the determination of whether a project may have a significant effect on the environment calls for careful judgment on the part of the Lead Agency and must be based to the extent possible on scientific and factual data. The proposed project is evaluated for consistency with the City's GHG Reduction Strategy. The GHG Reduction Strategy identifies GHG emissions reduction measures to be implemented by development projects in three categories: built environment and energy, land use and transportation, and recycling and waste reduction. Some measures are mandatory for all proposed development projects and others are voluntary. Voluntary measures could be incorporated as mitigation measures for proposed projects, at the City's discretion.

Projects that are consistent with the GHG Reduction Strategy would have a less than significant impact related to GHG emissions.

The City of San José General Plan contains goals and policies adopted for the purpose of reducing GHG emissions. The measures center around five strategies: energy, waste, water, transportation, and carbon sequestration. Some measures are considered mandatory for all proposed development projects, while others are considered voluntary. Voluntary measures can be incorporated as mitigation measures for proposed projects at the discretion of the City. The proposed project's consistency with these measures is detailed below.

Mandatory Criteria

1. Consistency with the Land Use/Transportation Diagram (General Plan Goals/Policies IP-1, LU-10)

2. Implementation of Green Building Measures (GP Goals: MS-1, MS-2, MS-14)

    - Solar Site Orientation
    - Site Design
    - Architectural Design
    - Construction Techniques
    - Consistency with City Green Building Ordinances and Policies

- Consistency with GHGRS Policies: MS-1.1, MS-1.2, MC-2.3, MS-2.11, and MS-14.4

3. Pedestrian/Bicycle Site Design Measures

   - Consistency with Zoning Ordinance

   - Consistency with GHGRS Policies: CD-2.1, CD-3.2, CD-3.3, Cd-3.4, CD-3.6, CD-3.8, CD-3.10, CD-5.1, LU-5.4, LU-5.5, LU-9.1, TR-2.8, TR-2.11, TR-2.18, TR-3.3, TR-6.7

4. Salvage building materials and architectural elements from historic structures to be demolished to allow re-use (General Plan Policy LU-16.4), if applicable;

5. Complete an evaluation of operational energy efficiency and design measures for energy-intensive industries (e.g. data centers) (General Plan Policy MS-2.8), if applicable;

6. Preparation and implementation of the Transportation Demand Management (TDM) Program at large employers (General Plan Policy TR-7.1), if applicable; and

7. Limits on drive-through and vehicle serving uses; all new uses that serve the occupants of vehicles (e.g. drive-through windows, car washes, service stations) must not disrupt pedestrian flow. (General Plan Policy LU-3.6), if applicable.

The proposed project is consistent with the General Plan land use designation for the site. New structures would be constructed in compliance with the San José Green Building Ordinance (Policy 6-32) and the CALGreen. The proposed building would be designed to achieve minimum LEED certification consistent with San José Council Policy 6-32. Bicycle parking would be provided above San José requirements. Given the proximity to transit and the inclusion of green building measures and bicycle parking, the project would be consistent with the mandatory criteria 1 – 3 described above.

Criteria 4, 5, and 7 are not applicable to the proposed project because the site does not contain historic structures, the project is not an energy-intensive use, and the project does not propose vehicle-serving uses.

The project, as proposed, is a residential building with a limited amount of ground floor retail. There is no space provided for large employers within the building. Therefore, Criteria 6 is not applicable to the project.

The proposed project would be operational prior to the year 2020, and is consistent with the General Plan and the applicable mandatory GHG Reduction Strategy goals and policies intended to reduce GHG emissions. **[(Same Impact as Approved Project (Less Than Significant Impact)]**

4.7.4 Conclusion

Development of the proposed project would comply with the applicable policies of the City's General Plan and adopted GHG Reduction Strategy and, therefore would have a less than significant GHG emissions impact, consistent with the findings of the General Plan EIR and Supplemental EIR. **[(Same Impact as Approved Project (Less Than Significant Impact)]**

4.8 HAZARDS AND HAZARDOUS MATERIALS

This discussion is based upon a Phase I Environmental Site Assessment (ESA) prepared by *Cornerstone Earth Group* in June 2016. A copy of this report is provided in Appendix E.

4.8.1 Overview

Hazardous materials are utilized throughout the City of San José within industrial, light industrial and commercial areas. Hazardous materials encompass a wide range of substances including petroleum products, pesticides, herbicides, metals, asbestos, and chemical compounds used in manufacturing and other uses. Hazardous materials in various forms can cause death, serious injury, long-lasting health effects and damage to the environment. As a result, numerous laws and regulations were developed to regulate the management of hazardous materials and mitigate potential impacts.

Hazardous waste generators and hazardous materials users in the City are required to comply with regulations enforced by several Federal, State, and County agencies. The regulations are designed to reduce the risk associated with the human exposure to hazardous materials and minimize adverse environmental effects. State and Federal construction worker health and safety regulations require protective measures during construction activities where workers may be exposed to asbestos, lead, and/or other hazardous materials.

4.8.2 Setting

4.8.2.1 *Historical Uses of the Project Site*

The project site is currently developed with two one-story commercial buildings and surface parking lots. Based on available records, the site was occupied by multiple dwellings beginning in 1884. By 1891, the 80 and 90 East San Carlos Street parcels were occupied by a "hay, wood and coal yard." By 1915, the bay, wood, and coal yard was replaced by dwellings. Behind an apartment building and adjacent to a dwelling, a small Dye Works business was present at the rear of 304 South 2nd Street. By 1939, two gasoline stations was constructed on the project site. One was located on the western corner of the project site (on 300 South 2nd Street parcel) and the other was located on the northern corner of the project site (90 East San Carlos Street parcel). One of the gas stations and residences were removed by 1950 and the site was developed with the existing buildings. The other gasoline station on the northern corner of the project site and two residences appear to have been removed by approximately 1962 when a McDonald's restaurant was constructed on site. The original McDonalds building appears to have been expanded over time and recently was vacated by McDonald's. The building currently sits unoccupied.

Sanborn maps and city directors from 1950 to 1984 show the larger building on-site occupied by various commercial/retail and commercial/office land uses. Former occupants of this building include Hales Department Store, Kurt Keltner Liquors, Bank of California, The Academy of Business, Central Corp DBA Data Central Institute, Santa Clara County Department of Social Services, and Genuity. The building has been occupied by TechShop since 2011. The adjacent structure has operated as a restaurant since it was constructed.

4.8.2.2 *On-Site Sources of Contamination*

The project site is identified in the following databases: HAZNET, Resource Conservation and Recovery Act (RCRA) NonGen/No Longer Registered (NLR) database.

A business identified as Ren Renzel is noted as occupying the project site on the HAZNET database. Records indicate that in 1999 and 2005 asbestos containing waste and liquids with a pH of less than or equal to two were disposed of at the site. The San Carlos/Ren Renzel business was listed on the RCRA NonGen/NLR database, which lists facilities that generate, transport, store, treat and/or dispose of hazardous waste. Non-generators are facilities that do not generate hazardous waste and NLR refers to businesses that are no longer registered to use or store hazardous materials. No violations were reported during the time Ren Renzel occupied the project site.

Genuity was listed at 300 South Second Street as having a 10,000 gallon aboveground storage tank (AST). The TechShop was listed as a business that stores hazardous materials and generates hazardous waste (less than 100 kg per year). Based on a review of City and County inspection files, the TechShop, waste generated on-site include coolant/water from machining operations, waste water from a water jet cutter which is disposed of in the sanitary sewer, beadblasting waste (disposed of in the municipal trash), and air filters and waste from a spray booth and soldering operations. Records note that the facility does not generate sufficient quantities of hazardous materials to subject the facility to hazardous materials business plan requirements.

Asbestos Containing Materials

Friable asbestos is any asbestos containing material (ACM) that, when dry, can easily be crumbled or pulverized to a powder by hand allowing the asbestos particles to become airborne. Common examples of products that have been found to contain friable asbestos include acoustical ceilings, plaster, wallboard, and thermal insulation for water heaters and pipes. Non-friable ACMs are materials that contain a binder or hardening agent that does not allow the asbestos particles to become airborne easily. Common examples of non-friable ACMs are asphalt roofing shingles, vinyl asbestos floor tiles, and transite siding made with cement. Non-friable ACMs can pose the same hazard as friable asbestos during remodeling, repairs, or other construction activities that would damage the material. ACMs are of concern because exposure to ACMs has been linked to cancer. ACMs are defined by the Federal Environmental Protection Agency as material containing more than one percent asbestos. Title 8, Section 1529, of the California Code of Regulations (CCR), however, defines asbestos-containing construction material (ACCM) as any manufactured construction material which contains more than one-tenth of one percent asbestos by weight. Use of friable asbestos products was banned in 1978.

Given that the on-site buildings were constructed in 1948 and 1966, ACMs are likely present on-site.

Lead-Based Paint

Lead-based paint is of concern both as a source of direct exposure through ingestion of paint chips, and as a contributor to lead in interior dust and exterior soil. Lead was widely used as a major ingredient in most interior and exterior oil-based paints prior to 1950. In 1972, the Consumer Products Safety Commission limited lead content in new paint to 0.5 percent (5,000 parts per million

[ppm]) and in 1978, to 0.06 percent (600 ppm). In 1978, the Consumer Products Safety Commission banned paint and other surface coating materials containing lead.

Given the age of the existing on-site buildings, lead-based paint may be present on-site.

4.8.2.3 *Off-Site Sources of Contamination*

Based on the database report, no hazardous material spill incidents have been reported within the site vicinity that would impact soil, soil vapor, and groundwater beneath the site.

4.8.2.4 *Other Hazards*

Airports

Norman Y. Mineta San José International Airport is located approximately 2.1 miles north of the project site. Based on the Airport Comprehensive Land Use Plan (CLUP), the project site is not located within the Airport Influence Area (AIA). The proposed project is not located within a CLUP-defined safety zone. In addition, the project is not located in the vicinity of a private airstrip.

Federal Aviation Regulations, Part 77, "Objects Affecting Navigable Airspace" sets forth standards and review requirements for protecting the airspace for safe aircraft operation, particularly by restricting the height of potential structures and minimizing other potential hazards (such as reflective surfaces, flashing lights, and electronic interference) to aircrafts in flight. Under Federal Aviation Regulations FAR Part 77, the Federal Aviation Administration (FAA) must be notified of certain proposed structures within an extended zone defined by a set of imaginary surfaces radiating out for several miles from an airport's runways, or which would otherwise stand at least 200 feet in height above ground.

Wildfire Hazards

The proposed project is located in a highly urbanized area that is not subject to wildland fires.

4.8.2.5 *Applicable Hazards and Hazardous Materials Regulations and Policies*

The Envision San José 2040 General Plan includes policies applicable to the proposed project.

Policy EC-7.1: For development and redevelopment projects, require evaluation of the proposed site's historical and present uses to determine if any potential environmental conditions exist that could adversely impact the community or environment.

Policy EC-7.2: Identify existing soil, soil vapor, groundwater and indoor air contamination and mitigation for identified human health and environmental hazards to future users and provide as part of the environmental review process for all development and redevelopment projects. Mitigation measures for soil, soil vapor and groundwater contamination shall be designed to avoid adverse human health or environmental risk, in conformance with regional, state and federal laws, regulations, guidelines and standards.

Policy EC-7.4: On redevelopment sites, determine the presence of hazardous building materials during the environmental review process or prior to project approval. Mitigation and remediation of hazardous building materials, such as lead-based paint and asbestos containing materials, shall be implemented in accordance with State and Federal laws and regulations.

Policy EC-7.5: In development and redevelopment sites, require all sources of imported fill to have adequate documentation that it is clean and free of contamination and/or acceptable for the proposed land use considering appropriate environmental screening levels for contaminants. Disposal of groundwater from excavations on construction sites shall comply with local, regional, and State requirements.

Action EC-7.8: When an environmental review process identifies the presence of hazardous materials on a proposed development site, the City will ensure that feasible mitigation measures that will satisfactorily reduce impacts to human health and safety and to the environment are required of or incorporated into the projects. This applies to hazard materials found in the soil, groundwater, soil vapor, or in existing structures.

Action EC-7.9: Ensure coordination with the County of Santa Clara Department of Environmental Health, Regional Water Quality Control Board, Department of Toxic Substances Control or other applicable regulatory agencies, as appropriate, on projects with contaminated soil and/or groundwater or where historical or active regulatory oversight exists.

Action EC-7.10: Require review and approval of grading, erosion control and dust control plans prior to issuance of a grading permit by the Director of Public Works on sites with known soil contamination. Construction operations shall be conducted to limit the creation and dispersion of dust and sediment runoff.

Policy TR-14.2: Regulate development in the vicinity of airports in accordance with Federal Aviation Administration regulations to maintain the airspace required for the safe operation of these facilities and avoid potential hazards navigation.

Policy TR-14.4: Require avigation and "no build" easement dedications, setting forth maximum elevation limits as well as for acceptance of noise or other aircraft related effects, as needed, as a condition of approval of development in the vicinity of airports.

Policy CD-5.8: Comply with applicable Federal Aviation Administration regulations identifying maximum heights for obstructions to promote air safety.

4.8.3 Checklist and Discussion of Impacts

	New Potentially Significant Impact	New Less Than Significant With Mitigation Incorporated	New Less Than Significant Impact	Same Impact as "Approved Project"	Less Impact than "Approved Project"	Checklist Source(s)
Would the project:						
a) Create a significant hazard to the public or the environment through the routine transport, use, or disposal of hazardous materials?	☐	☐	☐	☒	☐	1-4,12
b) Create a significant hazard to the public or the environment through reasonably foreseeable upset and accident conditions involving the release of hazardous materials into the environment?	☐	☐	☐	☒	☐	1-4,12
c) Emit hazardous emissions or handle hazardous or acutely hazardous materials, substances, or waste within one-quarter mile of an existing or proposed school?	☐	☐	☐	☒	☐	1-4,12
d) Be located on a site which is included on a list of hazardous materials sites compiled pursuant to Government Code Section 65962.5 and, as a result, will it create a significant hazard to the public or the environment?	☐	☐	☐	☒	☐	1-4,12
e) For a project located within an airport land use plan or, where such a plan has not been adopted, within two miles of a public airport or public use airport, will the project result in a safety hazard for people residing or working in the project area?	☐	☐	☐	☒	☐	1-4
f) For a project within the vicinity of a private airstrip, will the project result in a safety hazard for people residing or working in the project area?	☐	☐	☐	☒	☐	1-4
g) Impair implementation of, or physically interfere with, an adopted emergency response plan or emergency evacuation plan?	☐	☐	☐	☒	☐	1-4

	New Potentially Significant Impact	New Less Than Significant With Mitigation Incorporated	New Less Than Significant Impact	Same Impact as "Approved Project"	Less Impact than "Approved Project"	Checklist Source(s)
Would the project:						
h) Expose people or structures to a significant risk of loss, injury or death involving wildland fires, including where wildlands are adjacent to urbanized areas or where residences are intermixed with wildlands?	☐	☐	☐	☒	☐	1-4

Similar to the site development evaluated in the Downtown Strategy EIR and the General Plan EIR, the proposed project would result in less than significant hazards and hazardous materials impacts, as described below.

4.8.4 Hazards and Hazardous Materials Impacts

4.8.4.1 *Soil and Groundwater Contamination Impacts*
(Checklist Questions a – d)

Based on a 2015 inspection report, no evidence of significant hazardous materials spills was observed within the large building. Coolant and cutting fluid residue was observed on the concrete floor near the control machine and other metal working equipment; however, the potential for soil contamination is low.

As part of the facility closure process, the Department of Environmental Health (DEH) requires a closure plan be submitted by the tenant that describes closure activities, including cleaning of hazardous material handling equipment and ventilation systems, decontamination of buildings surfaces, confirmation sampling protocols, equipment removal and waste disposal practices. As a condition of project approval, the project applicant shall be required to coordinate with the DEH to ensure applicable closure activities are completed by the TechShop prior to vacating the building.

Between 1999 and 2007, Genuity occupied the project site as a data center and operated an emergency generator and a diesel AST. The generator and AST are no longer present and appear unlikely to have impacted the project site.

Two gasoline stations was constructed on-site in 1939, which likely stored vehicle fuels in USTs. The existing buildings at 300 South 2nd Street and 90 East San Carlos Street currently overlie the former service station locations. According to the Phase I analysis, an evaluation of the western corner of the project site showed no discoloration, odor, or other signs of petroleum contamination and no groundwater contamination. The former gas stations did not significantly impact the site; however, the project site may contain some residual contamination in the soil and/or groundwater near the former UST locations. No evaluation of potential impacts from the former gasoline service station on the eastern portion (90 East San Carlos Street) has been conducted. The former McDonalds was not a hazardous materials generator.

The USTs were presumed to be removed at the time the gas station was demolished; however, no documentation of the UST removal was identified.

The General Plan EIR concluded that new development and redevelopment allowed under the proposed General Plan could occur in areas with soil or groundwater contamination; however, implementation of existing policies and regulations would substantially reduce hazards to the people and/or the environment (Refer to Section 4.8.4.4 below). Therefore, the project would not exacerbate an existing soil or groundwater contamination source and would not impact persons or properties off-site. **[Same Impact as Approved Project (Less Than Significant Impact)]**

4.8.4.2 *Asbestos-Containing Materials and Lead-Based Paint Impacts*

Due to the age of the existing structure on-site, building materials may contain asbestos. If the building is demolished, asbestos particles could be released and expose construction workers and nearby building occupants to harmful levels of asbestos.

Due to the age of the existing structures on-site, lead-based paint may be present. If the lead-based paint is still bonded to the building materials, its removal is not required prior to demolition. If the lead-based paint is flaking, peeling, or blistering, it should be removed prior to demolition. It will be necessary to follow applicable Occupational Safety and Health Administration (OSHA) regulations and any debris containing lead must be disposed appropriately.

No information regarding the use of lead-based paint was identified on-site; however, if used, residual pesticide and lead concentrations may remain in on-site soil. The project proposes to excavate to a depth of approximately 10 feet for below-grade parking. Disturbance of these materials during demolition and construction of the proposed project could expose construction workers to harmful levels of lead.

Demolition of the existing structures on the project site could expose construction workers or occupants on adjacent buildings to harmful levels of ACMs or lead.

The project is required to implement the following Standard Permit Conditions measures to reduce impacts due to the presence of ACMs and/or lead-based paint:

Standard Permit Conditions

- In conformance with State and local laws, a visual inspection/pre-demolition survey, and possible sampling, shall be conducted prior to the demolition of on-site building to determine the presence of asbestos-containing materials and/or lead-based paint.

- During demolition activities, all building materials containing lead-based paint shall be removed in accordance with Cal/OSHA Lead in Construction Standard, Title 8, California Code Regulations 1532.1, including employee training, employee air monitoring, and dust control. Any debris or soil containing lead-based paint or coatings would be disposed of at landfills that meet acceptance criteria for the waste being disposed.

- All potentially friable ACMs shall be removed in accordance with NESHAP guidelines prior to building demolition or renovation that may disturb the materials. All demolition activities will be undertaken in accordance with Cal/OSHA standards contained in Title 8 of CCR, Section 1529, to protect workers from asbestos exposure.

- A registered asbestos abatement contractor shall be retained to remove and dispose of ACMs identified in the asbestos survey performed for the site in accordance with the standards stated above.

- Materials containing more than one percent asbestos are also subject to BAAQMD regulations. Removal of materials containing more than one percent asbestos shall be completed in accordance with BAAQMD requirements and notifications.

The General Plan EIR concluded that conformance with regulatory requirements would result in a less than significant impact from ACMs and Lead. **[Same Impact as Approved Project (Less Than Significant Impact)]**

4.8.4.3 *Dewatering During Construction* *(Checklist Question d)*

Groundwater on-site has been found at a depth of approximately 10 to 15 feet bgs. The project site would be excavated to a depth of approximately 10 feet for the one-story below-grade parking structure. The project may encounter groundwater during excavation activities on-site which would need to be removed from excavated areas and disposed. Water discharge produced from construction dewatering to the sanitary sewer is acceptable under permit by the City of San José Environmental Service Department Watershed Protection Division. The maximum duration of a short-term permit to discharge to the sanitary sewer is one year. Discharge to the storm drain system requires approval from the San Francisco Bay Regional Water Quality Control Board (RWQCB). Dewatering during construction is not anticipated to create a significant hazard to the public or the environment. **[Same Impact as Approved Project (Less Than Significant Impact)]**

4.8.4.4 *Other Hazard Impacts* *(Checklist Questions c, e – h)*

Schools

The proposed project is located within one-quarter mile of San José State University. New development and redevelopment allowed under the Envision San José 2040 General Plan could place sensitive uses in proximity to industrial, commercial or institutional hazardous materials users; however, implementation of existing regulations and adopted plans would substantially reduce hazards to people. The site would not use or store hazardous materials in sufficient quantities to pose a health risk to any nearby school. **[Same Impact as Approved Project (Less Than Significant Impact)]**

Airport Operations

Pursuant to federal regulations (FAR Part 77) and City General Plan policies, the proposed project must be submitted to the FAA for airspace safety review and issued a "Determinations of No Hazard" prior to City development permit approval. Any conditions set forth in the FAA determinations shall be incorporated into the City development permit as required conditions of approval. As mentioned previously, the project site is not located within the AIA and CLUP-defined

safety zone. Compliance with FAR Part 77 and City General Plan policies would ensure that the project would not create an airspace safety impact. **[Same Impact as Approved Project (Less Than Significant Impact)]**

Emergency Response Plans

The proposed project would not impair or interfere with the implementation of an adopted emergency response plan or emergency evacuation plan. **[Same Impact as Approved Project (No Impact)]**

Wildland Fires

The project site is in a developed urban area and it is not adjacent to any wildland areas that would be susceptible to fire. Therefore, implementation of the proposed project would not expose future site users or the proposed building to wildland fires. **[Same Impact as Approved Project (No Impact)]**

4.8.4.5 *Existing Hazardous Materials Conditions Affecting the Project*

The California Supreme Court in a December 2015 opinion confirmed CEQA is concerned with the impacts of a project on the environment, not the effects the existing environment may have on a project; nevertheless, the City has policies that address existing conditions affecting a proposed project, which are discussed below.

General Plan Policy EC-7.1 requires the evaluation of a project site's historical and present uses to determine if any potential environmental conditions exist that could adversely impact the community or environment. Additionally, Policy EC-7.2 requires redevelopment projects to identify existing soil, soil vapor, groundwater and indoor air contamination and mitigation for the health of future users and provide as part of the environmental review process. As such a Phase I ESA was prepared for the project site. Mitigation measures for soil, soil vapor and groundwater contamination are required to avoid adverse human health or environmental risk, in conformance with regional, State and Federal laws, regulations, guidelines and standards. Based on available records, the project site may have some localized soil contamination from previous business operations on-site.

Conditions of Approval

The following measures are required to be implemented as conditions of project approval to reduce identified human health and environmental hazards to future users:

- Prior to the issuance of grading permits, shallow soil and groundwater samples shall be taken to determine if contaminates from previous operations are located on-site in concentrations above established construction worker and residential environmental screening levels. Once the soil sampling analysis is complete, a report of the findings will be provided to the Director of Planning, Building and Code Enforcement, and other applicable City staff for review prior to issuance of any grading permits.

- If contaminated soils are found in concentrations above established thresholds for worker safety and/or residential thresholds, a Site Management Plan (SMP) shall be prepared by a

qualified hazardous materials consultant to establish management practices for handling contaminated soil or other materials encountered during construction activities. The sampling results shall be compared to appropriate risk-based screening levels in the Site Management Plan. The Site Management Plan shall identify potential health, safety, and environmental exposure considerations associated with redevelopment activities and shall identify appropriate mitigation measures. The Site Management Plan shall be submitted to the Supervising Environmental Planner of the City of San José Department of Planning, Building, and Code Enforcement and Santa Clara County Department of Environmental Health (or equivalent regulatory agency) for approval prior to commencing construction activities. The Site Management Plan shall include, but is not limited to, the following:

- A detailed discussion of the site background
- Proper mitigation as needed for demolition of existing structures;
- Management of stockpiles, including sampling, disposal, and dust and runoff control including implementation of a stormwater pollution prevention program;
- Management of underground structures encountered, including utilities and/or underground storage tanks;
- Procedures to follow if evidence of an unknown historic release of hazardous materials (e.g., underground storage tanks, polychlorinated biphenyls [PCBs], asbestos containing materials, lead-based paint, etc.) is discovered during excavation or demolition activities;
- Sampling and laboratory analyses of excess soil requiring disposal at an appropriate off-site waste disposal facility
- Traffic control during site improvements;
- Noise, work hours, and other relevant City regulations;
- Mitigation of soil vapors (if required);
- Procedures for proper disposal of contaminated materials (if required); and
- Monitoring, reporting, and regulatory oversight arrangements.
- A Health and Safety Plan by an industrial hygienist

With implementation of the required measures, the proposed project would not pose a safety risk to construction workers or future site users consistent with Policy EC-7.2.

4.8.5 Conclusion

The proposed project would result in a less than significant hazards and hazardous materials impact. **[Same Impact as Approved Project (Less Than Significant Impact)]**

4.9 HYDROLOGY AND WATER QUALITY

4.9.1 Setting

4.9.1.1 *Flooding*

Based on the Federal Emergency Management Agency's (FEMA) Flood Insurance Rate Maps (Map 06085C0234H), the project site is located in Flood Zone D.[14] Flood Zone D is defined as an area of undetermined but possible flood hazard that is outside the 100-year floodplain. There are no floodplain requirements for Zone D.

4.9.1.2 *Dam Failure*

Based on the Santa Clara Valley Water District (SCVWD) dam failure inundation hazard maps, the project site is within the Andersen Dam and the Lexington Dam failure inundation zone.[15,16]

4.9.1.3 *Seiches, Tsunamis, and Mudflows*

There are no landlocked bodies of water near the project site that would affect the site in the event of a seiche. There are no bodies of water near the project site that would affect the site in the event of a tsunami.[17] The site is located on the nearly flat valley floor topography and is not subject to the risk of mudflows.

4.9.1.4 *Storm Drainage System*

The City of San José owns and maintains municipal storm drainage facilities throughout the City. Storm drain lines are inspected and maintained by the Department of Transportation and are installed, rehabilitated, or replaced by the Department of Public Works. The lines that serve the project site drain into Guadalupe River. Guadalupe River flows north, carrying the effluent from the storm drains into San Francisco Bay. There is no overland release of stormwater directly into any water body from the project site.

Currently, 92 percent of the project site is covered with impervious surfaces. There is an existing 12-inch storm drain line that connects to an existing 15-inch storm drain line in South Third Street, which connects to an existing 18-inch storm drain line in East San Carlos Street that currently serves the project site.

4.9.1.5 *Water Quality*

As stated above, stormwater from the project site drains into the Guadalupe River. The water quality of Guadalupe River is directly affected by pollutants contained in stormwater runoff from a variety of

[14] Federal Emergency Management Agency. http://msc.fema.gov/portal. Accessed October 26, 2016.
[15]Santa Clara Valley Water District. *Lexington Reservoir 2009 Flood Inundation Maps. 2009.* <http://www.valleywater.org/Services/LexingtonReservoirAndLenihanDam.aspx> Accessed October 26, 2016.
[16]Santa Clara Valley Water District. *Anderson Dam EAP 2009 Flood Inundation Maps. 2009.* <http://www.valleywater.org/uploadedFiles/Services/CleanReliableWater/WhereDoesYourWaterComeFrom/Reservoirs/Anderson_Dam/Anderson%20Inundation%20Maps%202009.pdf?n=6912> Accessed October 26, 2016.
[17] Association of Bay Area Governments. *Tsunami Inundation Emergency Planning Map for the San Francisco Bay Region.* <http://quake.abag.ca.gov/tsunamis>. Accessed October 26, 2016.

urban and non-urban uses. Stormwater from urban uses contains metals, pesticides, herbicides, and other contaminants, including oil, grease, asbestos, lead, and animal wastes. Based on data from the Environmental Protection Agency (EPA)[18], the Guadalupe River is currently listed on the California 303(d)[19] list and the Total Maximum Daily Load (TMDL) high priority schedule for mercury.[20] A TMDL for mercury was established in 2010.

4.9.1.6 *Groundwater*

Based on the Phase I ESA prepared by *Cornerstone Earth Group*, the depth to groundwater is approximately 10 to 15 feet bgs. Groundwater flow is generally to the northwest.

4.9.1.7 *Water Quality Regulatory Background*

Nonpoint Source Pollution Program

In 1988, the SWRCB adopted the Nonpoint Source Management Plan in an effort to control nonpoint source pollution in California. In December 1999, the Plan was updated to comply with the requirements of Section 319 of the Clean Water Act and Section 6217 of the Coastal Zone Act Reauthorization Amendment (CZARA) of 1990. The Nonpoint Source Program requires individual permits to control discharge associated with construction activities. The Nonpoint Source Program is administered by the RWQCB under the National Pollutant Discharge Elimination System (NPDES) General Permit for Construction Activities. Projects must comply with the requirements of the Nonpoint Source Program if:

- They disturb one acre or more of soil; or
- They disturb less than one acre of soil but are part of a larger development that, in total, disturbs one acre or more of soil.

The NPDES General Permit for Construction Activity requires the developer to submit a Notice of Intent (NOI) to the RWQCB and to develop a Stormwater Pollution Prevention Plan (SWPPP) to control discharge associated with construction activities.

All development projects, whether subject to the CGP or not, shall comply with the City of San Jose's Grading Ordinance, which requires the use of erosion and sediment controls to protect water quality while the site is under construction. Prior to the issuance of a permit for grading activity occurring during the rainy season (October 15 to April 15), the project will submit to the Director of Public Works an Erosion Control Plan detailing BMPs that will prevent the discharge of stormwater pollutants.

[18] United States Environmental Protection Agency. *California 303(d) Listed Waters.* http://iaspub.epa.gov/tmdl_waters10/attains_impaired_waters.impaired_waters_list?p_state=CA&p_cycle=2012 Accessed April 28, 2016.
[19] The Clean Water Act, section 303, establishes water quality standards and TMDL programs. The 303(d) list is a list of impaired water bodies.
[20] A TMDL is a calculation of the maximum amount of a pollutant that a water body can receive and still meet water quality standards.

Santa Clara Valley Urban Runoff Pollution Prevention Program

The Santa Clara Valley Urban Runoff Pollution Prevention Program (SCVURPPP) was developed in accordance with the requirements of the 1986 San Francisco Bay Basin Water Quality Control Plan, for the purpose of reducing water pollution associated with urban stormwater runoff. This program was also designed to fulfill the requirements of Section 304(1) of the Federal Clean Water Act, which mandated that the Federal Environmental Protection Agency develop NPDES application requirements for storm water runoff.

Municipal Regional Stormwater NPDES Permit (MRP)/Provision C.3 Requirements

The San Francisco Bay RWQCB also has issued a Municipal Regional Stormwater NPDES Permit (Permit Number CAS612008) (MRP). In an effort to standardize stormwater management requirements throughout the region, this permit replaces the formerly separate countywide municipal stormwater permits with a regional permit for 77 Bay Area municipalities, including the City of San José. Under provisions of the MRP, redevelopment projects that add and/or replace more than 10,000 square feet of impervious surface, or 5,000 square feet of uncovered parking area, are required to design and construct stormwater treatment controls to treat post-construction stormwater runoff. Amendments to the MRP require all of the post-construction runoff to be treated by using Low Impact Development (LID) treatment controls, such as biotreatment facilities, unless the project qualifies for Special Project credit reduction, which would allow the project to implement non-LID measures for all or a portion of the site depending on the project characteristics. This would also require a narrative discussion as to why the implementation of 100 percent LID measures is not feasible per the MRP. The project meets the criteria to qualify as a Special Project (Category C – Transit Oriented Development). If it is not feasible for the project to implement 100 percent LID measures, the project shall submit an explanation to the City for confirmation, in accordance with the MRP.

City of San José Post-Construction Urban Runoff Management (Policy 6-29)

The City of San José's Policy No. 6-29 implements the stormwater treatment requirements of Provision C.3 of the Municipal Regional Stormwater NPDES Permit. The City's Policy No. 6-29 requires all new and redevelopment projects regardless of size and land use to implement post-construction Best Management Practices (BMPs) and Treatment Control Measures (TCM). This policy establishes specific design standards for post-construction TCMs for C.3 Provision regulated to use site design and source control measures and numerically-sized Low Impact Development (LID) stormwater TMCs in accordance with the strategies set forth in the policy.

The policy requires special land use categories, which are defined as uncovered parking areas (stand-alone or part of another use), restaurants, auto service facilities and retail gasoline outlets that create or replace 5,000 square feet or more of impervious surface area to use site design and source control measures and numerically-sized LID stormwater treatment measures in accordance with the strategies set forth in the policy.

The policy also allows certain projects that are located within special districts or priority development areas in transit oriented locations within the City to utilize LID treatment reduction credits (Special Projects). These Special Projects may use alternatives to the exclusive use of LID

measures for the treatment of all or a portion of a project's runoff. Project's need to demonstrate, through a narrative discussion, the limiting factors of the site and the reasons why the project would not be able to implement 100 percent LID measures on the site. The allowed LID reduction credits would also be to the extent to which a project qualifies for LID treatment reduction credits in accordance with the approved Special Projects provisions of the Municipal Regional Stormwater Permit.

Hydromodification

The Municipal Regional Stormwater NPDES Permit requires all new and redevelopment projects that create or replace one acre or more of impervious surface to manage development-related increases in peak runoff flow, volume, and duration, where such hydromodification is likely to cause increased erosion, silt pollutant generation or other impacts to beneficial uses of local rivers, streams, and creeks.

City of San José Hydromodification Management (Policy 8-14)

The City of San José's Policy No. 8-14 implements the stormwater treatment requirements of Provision C.3 of the Municipal Regional Stormwater NPDES Permit. Policy No. 8-14 requires all new and redevelopment projects that create or replace one acre or more of impervious surface and are located in sub-watersheds or catchment areas that are less than 65 percent impervious to manage development-related increases in peak runoff flow, volume, and duration, where such hydromodification is likely to cause increased erosion, silt pollutant generation or other impacts to beneficial uses of local rivers, streams, and creeks. The policy requires these projects to be designed to control project-related hydromodification through a Hydromodification Management Plan (HMP). Based on the SCVUPPP watershed map for the City of San José, the project site is exempt from the NPDES hydromodification requirements because it is located in a subwatershed greater than or equal to 65 percent impervious.[21]

4.9.1.8 *Applicable Hydrology and Water Quality Regulations and Policies*

The Envision San José 2040 General Plan includes policies applicable to the proposed project.

Policy ER-8.1: Manage stormwater runoff in compliance with the City's Post-Construction Urban Runoff (6-29) and Hydromodification Management (8-14) Policies.

Policy ER-8.3: Ensure that private development in San José includes adequate measures to treat stormwater runoff.

Policy ER-8.5: Ensure that all development projects in San José maximize opportunities to filter, infiltrate, store and reuse or evaporate stormwater runoff onsite.

Policy EC-4.1: Design and build all new or remodeled habitat structures in accordance with the most recent California Building Code and municipal code requirements as amended and adopted by the City of San José, including provisions for expansive soil, and grading and storm water controls.

[21] Santa Clara Valley Urban Runoff Pollution Prevention Program. http://www.scvurppp-w2k.com/hmp_maps.htm Accessed October 26, 2016.

Policy EC-5.16: Implement the Post-Construction Urban Runoff Management requirements of the City's Municipal NPDES Permit to reduce urban runoff from project sites.

Action EC-7.10: Require review and approval of grading, erosion control and dust control plans prior to issuance of a grading permit by the Director of Public Works on sites with known soil contamination. Construction operations shall be conducted to limit the creation and dispersion of dust and sediment runoff.

4.9.2 Checklist and Discussion of Impacts

	New Potentially Significant Impact	New Less Than Significant With Mitigation Incorporated	New Less Than Significant Impact	Same Impact as "Approved Project"	Less Impact than "Approved Project"	Checklist Source(s)
Would the project:						
a) Violate any water quality standards or waste discharge requirements?	☐	☐	☐	☒	☐	1-4
b) Substantially deplete groundwater supplies or interfere substantially with groundwater recharge such that there will be a net deficit in aquifer volume or a lowering of the local groundwater table level (e.g., the production rate of pre-existing nearby wells will drop to a level which will not support existing land uses or planned uses for which permits have been granted)?	☐	☐	☐	☒	☐	1-4
c) Substantially alter the existing drainage pattern of the site or area, including through the alteration of the course of a stream or river, in a manner which will result in substantial erosion or siltation on-or off-site?	☐	☐	☐	☒	☐	1-4
d) Substantially alter the existing drainage pattern of the site or area, including through the alteration of the course of a stream or river, or substantially increase the rate or amount of surface runoff in a manner which will result in flooding on-or off-site?	☐	☐	☐	☒	☐	1-4

	New Potentially Significant Impact	New Less Than Significant With Mitigation Incorporated	New Less Than Significant Impact	Same Impact as "Approved Project"	Less Impact than "Approved Project"	Checklist Source(s)
Would the project:						
e) Create or contribute runoff water which will exceed the capacity of existing or planned stormwater drainage systems or provide substantial additional sources of polluted runoff?	☐	☐	☐	☒	☐	1-4
f) Otherwise substantially degrade water quality?	☐	☐	☐	☒	☐	1-4,13
g) Place housing within a 100-year flood hazard area as mapped on a Federal Flood Hazard Boundary or Flood Insurance Rate Map or other flood hazard delineation map?	☐	☐	☐	☒	☐	1-4,13
h) Place within a 100-year flood hazard area structures which will impede or redirect flood flows?	☐	☐	☐	☒	☐	1-4,13
i) Expose people or structures to a significant risk of loss, injury or death involving flooding, including flooding as a result of the failure of a levee or dam?	☐	☐	☐	☒	☐	1-4,13
j) Inundation by seiche, tsunami, or mudflow?	☐	☐	☐	☒	☐	1-4

Similar to the site development evaluated in the Downtown Strategy EIR and General Plan EIR, the proposed project would result in less than significant hydrology and water quality impacts, as described below.

4.9.2.1 *Water Quality Impacts (Checklist Question a and f)*

Construction Impacts

Implementation of the project would involve demolition, excavation and grading activities on-site. Ground-disturbing activities related to construction would temporarily increase the amount of debris on-site and grading activities could increase erosion and sedimentation that could be carried by runoff into the San Francisco Bay. The proposed project will be decreasing the total amount of existing imperious surfaces on the site. However, the project will be creating and/or replacing more than 10,000 square feet of imperious surfaces. Therefore, the project will be required to comply with the City of San José's Post-Construction Urban Runoff Policy 6-29 and the RWQCB Municipal Regional Stormwater permit.

Pursuant to the City's requirements, the following measures (based on RWQCB recommendations) have been included in the project as a condition of project approval to reduce potential construction-related water quality impacts:

Standard Permit Conditions

- Burlap bags filled with drain rock shall be installed around storm drains to route sediment and other debris away from the drains.

- Earthmoving or other dust-producing activities would be suspended during periods of high winds.

- All exposed or disturbed soil surfaces would be watered at least twice daily to control dust as necessary.

- Stockpiles of soil or other materials that can be blown by the wind would be watered or covered.

- All trucks hauling soil, sand, and other loose materials would be covered and all trucks would be required to maintain at least two feet of freeboard.

- All paved access roads, parking areas, staging areas and residential streets adjacent to the construction sites would be swept daily (with water sweepers).

- Vegetation in disturbed areas would be replanted as quickly as possible.

- All unpaved entrances to the site shall be filled with rock to remove mud from tires prior to entering City streets. A tire wash system may also be installed at the request of the City.

With implementation of the identified standard permit conditions and compliance with the NPDES General Construction Permit, construction of the proposed project would have a less than significant impact on water quality. **[Same Impact as Approved Project (Less Than Significant Impact)]**

Post-Construction Impacts

Currently, 92 percent (58,610 square feet) of the project site is comprised of impervious surfaces. The proposed project would decrease the total amount of impervious surfaces on-site, but would add and/or replace more than 10,000 square feet of impervious surfaces. Therefore, the project would be required to comply with the City of San José's Post-Construction Urban Runoff Policy 6-29 and the RWQCB Municipal Regional Stormwater permit.

The MRP requires all of the post-construction stormwater runoff to be treated by numerically sized Low Impact Development (LID) treatment controls, such as biotreatment facilities, unless the project is granted Special Project LID Reduction Credits, which would allow the project to implement non-LID measures for all or a portion of the site depending on the project characteristics. The project qualifies as a Special Project (Category C-Transit Oriented Development) and currently proposes biotreatment planter boxes and media filters. Prior to issuing any LID Reduction Credits, the City must first establish a narrative discussion submitted by the applicant that describes why and how the

implementation of 100 percent LID stormwater treatment measures are not feasible, in accordance with the MRP. If it is not feasible for the project to implement 100 percent LID measures, the project shall submit an explanation to the City for confirmation.

The General Plan EIR concluded that with the regulatory programs currently in place, stormwater runoff from new development would have a less than significant impact on stormwater quality. With implementation of a Stormwater Control Plan consistent with RWQCB and compliance with the City's regulatory policies pertaining to stormwater runoff, operation of the proposed project would have a less than significant water quality impact. The project's compliance with the City's Grading Ordinance, the City's Urban Runoff Policy 6-29, and RWQCB's MRP NPDES Permit/C.3 requirements would result in the same less than significant impacts to post-construction water quality as described in the General Plan EIR and Downtown Strategy EIR. **[Same Impact as Approved Project (Less Than Significant Impact)]**

4.9.2.2 ***Groundwater Impacts*** *(Checklist Question b)*

The project site is currently 92 percent paved and does not contribute to recharging of the groundwater aquifers used as water supply. This condition would not change once development is complete. **[Same Impact as Approved Project (Less Than Significant Impact)]**

The proposed project would include one level of below-grade parking to a depth of approximately 10 feet. Groundwater is estimated to be approximately 10 to 15 feet bgs. Based on this data, the proposed development could interfere with the shallow groundwater aquifer but would not substantially interfere with overall groundwater flow or impact the deeper groundwater aquifers. It is anticipated that dewatering would be required during project construction.

In accordance with City policies, the following standard permit conditions shall be implemented as part of the project:

Standard Permit Conditions

Construction Period

- As the project is regulated by the statewide Construction General Permit, it would be subject to the requirements of that permit related to construction-period pumped groundwater discharges.

Post- Construction

- The project shall be designed so that the below-grade parking garage would be able to withstand hydrostatic groundwater pressure and would not need to pump groundwater on a post-construction basis. If this is infeasible then the project can implement groundwater pumping in conformance with applicable permits.

- Any pumped uncontaminated groundwater of less than 10,000 gallons/day shall be discharged to a landscaped area or bioretention unit that is properly designed to accommodate the volume of pumped groundwater, or discharged to the sanitary sewer.

Discharge to the sanitary sewer would require review by the City's Environmental Services Engineering section during the Building Permit stage and is subject to all wastewater permitting requirements and fees. In the event, it is not feasible to pump groundwater to stormwater treatment features or the sanitary sewer, groundwater may be discharged to the storm sewer system if testing determines that the discharge is uncontaminated, as outlined in the City's Stormwater Permit - Provision C.15.b.i(2)(c)-(e). Pre-discharge sampling data collected for verification that the pumped groundwater is not contaminated shall be provided to the City of San José.

- Any proposed new discharges of uncontaminated groundwater with flows equal to or more than 10,000 gallons/day, and all new discharges of potentially contaminated groundwater, shall obtain a permit from the San Francisco Bay Regional Water Quality Control Board. Upon approval of the permit, a copy shall be provided to the City of San José with the Building Permit application submittal.

[Same Impact as Approved Project (Less Than Significant Impact)]

4.9.2.3 *Drainage Pattern Impacts (Checklist Question c)*

The proposed project would not substantially alter the existing drainage pattern of the site or area through the alteration of any waterway. As a result, the project would not substantially increase erosion or increase the rate or amount of stormwater runoff. **[Same Impact as Approved Project (Less Than Significant Impact)]**

4.9.2.4 *Storm Drainage Impacts (Checklist Questions d and e)*

Under existing conditions, the project site is eight percent pervious. Under the current existing conditions, the project site is approximately eight percent pervious. The proposed project would increase the amount of pervious surfaces by approximately 23 percent, which would result in a net reduction in stormwater runoff. The project proposes to connect to the existing storm drain mains along E. San Carlos Street and South Third Street.

The Downtown Strategy EIR concluded that with the proposed changes in land use, full build-out of the Downtown Strategy plan would result in an overall net decrease in impermeable surfaces. Furthermore, the General Plan EIR concluded that although new development and redevelopment allowed under the General Plan may result in an increase in impervious surfaces, implementation of applicable City policies and existing regulations would substantially reduce drainage hazards. As a result, implementation of the proposed project would have a less than significant impact on the existing storm drainage system. **[Same Impact as Approved Project (Less Than Significant Impact)]**

4.9.2.5 *Seiches, Tsunamis, and Mudflows (Checklist Question j)*

Seiches are waves produced in a confined body of water such as a lake or reservoir by ground shaking or landslides and a tsunami is a wave generated by an earthquake, landslide, or other large displacement of water in the ocean. As mentioned in *Section 4.9.1.3*, there are no landlocked bodies of water near the project site that would affect the site in the event of a seiche and/or tsunami. The project area is flat and there are no mountains in proximity and, as a result, development of the

project would not cause mudflows that would impact adjacent properties. **[Same Impact as Approved Project (Less Than Significant Impact)]**

4.9.2.6 *Existing Flooding Conditions Affecting the Project*
(Checklist Questions d and g – i)

The California Supreme Court in a December 2015 opinion (*BIA v. BAAQMD*) confirmed CEQA is concerned with the impacts of a project on the environment, not the effects the existing environment may have on a project; nevertheless the City has policies that address existing conditions (e.g. flooding) affecting a proposed project, which are addressed below.

Based on the FEMA Flood Insurance Rate Maps, the project site is outside the 100-year floodplain and, as a result, the project would not expose people or structures to significant flood hazards in compliance with City policies.

The project site is located within the Anderson and Lexington Reservoirs dam failure inundation areas. The California Division of Safety of Dams (DSOD) is responsible for inspecting dams on an annual basis to ensure the dams are safe, performing as intended, and not developing problems. As part of its comprehensive dam safety program, the SCVWD routinely monitors and studies the condition of each of its 10 dams, including Anderson and Lexington. The General Plan EIR concluded that with the regulatory programs currently in place, the possible effects of dam failure would not expose people or structures to a significant risk of loss, injury or death.

4.9.3 Conclusion

With implementation of the Standard Permit Conditions, the project would have a less than significant hydrology impact. **(Less Than Significant Impact)**

4.10 LAND USE AND PLANNING

4.10.1 Setting

4.10.1.1 *Existing Land Uses*

The project site is was previously developed with two one-story commercial buildings and surface parking lots. Access to the western portion of the site is provided via an entry only driveway on East San Carlos Street and an exit only driveway on South Second Street. Access to the eastern portion of the site is provided via two driveways on East San Carlos Street. The site does not currently have access from South Third Street. Metered parking is provided on all the street frontages.

The site is located in the downtown core of San José and is surrounded by a mix of office, retail, and residential land uses. Figure 2.0-3 shows an aerial of the project site.

4.10.1.2 *Surrounding Land Uses*

The buildings in the project area range from one- to six-stories. Immediately north of the project site is East San Carlos Street, an east-west three-lane street (one lane eastbound and two lanes westbound). North of East San Carlos Street is a three-story parking structure with ground floor retail. Immediately west of the project site is South Third Street, a two-lane, one-way roadway. Located along South Third Street are multiple two-story residences that have been converted to retail businesses and a six-story apartment building with ground floor retail. South of the project site is a five-story affordable housing apartment complex with YWCA offices on the lower floors. West of the project site is South Second Street, a two-lane, one-way roadway. West of South Second Street is a large pay-for-parking lot and a three-story commercial office building which is currently vacant.

4.10.1.3 *Existing Land Use Designation and Zoning*

The project site is designated *Downtown* under the General Plan and is zoned *DC – Downtown Commercial*. The General Plan designation allows for office, retail, service, residential, and entertainment uses within the downtown area with building heights of three to 30 stories, a FAR of up to 30.0, and residential densities up to 800 dwelling units per acre.

Permitted land uses under the *DC – Downtown Commercial* zoning are consistent with the *Downtown* General Plan land use designation. Based on the DC zoning, development shall only be subject to height limitations necessary for the safe operation of Norman Y. Mineta San José International Airport. There are no minimum setback requirements.

4.10.1.4 *Applicable Land Use Regulations and Policies*

The Envision San José 2040 General Plan includes policies applicable to the proposed project.

Policy CD-1.1: Require the highest standards of architectural and site design, and apply strong design controls for all development projects, both public and private, for the enhancement and development of community character and for the proper transition between areas with different types of land uses.

Policy CD-1.8: Create an attractive street presence with pedestrian-scaled building and landscape elements that provide an engaging, safe, and diverse walking environment. Encourage compact, urban design, including use of smaller building footprints, to promote pedestrian activity through the City.

Policy CD-1.12: Use building design to reflect both the unique character of a specific site and the context of surrounding development and to support pedestrian movement throughout the building site by providing convenient means of entry from public streets and transit facilities where applicable, and by designing ground level building frontages to create an attractive pedestrian environment along building frontages. Unless it is appropriate to the site and context, franchise-style architecture is strongly discouraged.

Policy CD-1.23: Further the Community Forest Goals and Policies in this Plan by requiring new development to plant and maintain trees at appropriate locations on private property and along public street frontages. Use trees to help soften the appearance of the built environment, help provide transitions between land uses, and shade pedestrian and bicycle areas.

Policy CD-4.5: For new development in transition areas between identified Growth Areas and nongrowth areas, use a combination of building setbacks, building step-backs, materials, building orientation, landscaping, and other design techniques to provide a consistent streetscape that buffers lower-intensity areas from higher-intensity areas and that reduces potential shade, shadow, massing, view shed, or other land use compatibility concerns.

Policy CD-4.9: For development subject to design review, ensure the design of new or remodeled structures is consistent or complementary with the surrounding neighborhood fabric (including but not limited to prevalent building scale, building materials, and orientation of structures to the street).

4.10.2 Checklist and Discussion of Impacts

	New Potentially Significant Impact	New Less Than Significant With Mitigation Incorporated	New Less Than Significant Impact	Same Impact as "Approved Project"	Less Impact than "Approved Project"	Checklist Source(s)
Would the project:						
a) Physically divide an established community?	☐	☐	☐	☒	☐	1-4
b) Conflict with any applicable land use plan, policy, or regulation of an agency with jurisdiction over the project (including, but not limited to the general plan, specific plan, local coastal program, or zoning ordinance) adopted for the purpose of avoiding or mitigating an environmental effect?	☐	☐	☐	☒	☐	1-4
c) Conflict with any applicable habitat conservation plan or natural community conservation plan?	☐	☐	☐	☒	☐	1-4

Similar to the site development evaluated in the Downtown Strategy EIR and the General Plan EIR, the proposed project would result in less than significant land use impacts, as described below.

4.10.2.1 *Impacts to an Established Community (Checklist Question a)*

Changes in land use are not adverse environmental impacts in and of themselves, but they may create conditions that adversely affect existing uses in the immediate vicinity. The proposed project is a high-density housing project located in the downtown core. This area is characterized by office buildings, restaurants, small commercial establishments, and residential buildings. Based on the analysis prepared for the Downtown Strategy EIR, the proposed project would not conflict with the adjacent and nearby land uses, because it is a compatible land use and would not physically divide an established community. **[Same Impact as Approved Project (No Impact)]**

4.10.2.2 *Consistency with the General Plan Land Use Designation and Zoning (Checklist Question b)*

As mentioned above, the project site is currently designated as *Downtown* under the City of San José General Plan and allows a maximum FAR of 30.0 with buildings heights of three to 30 stories. The site is with the *DC – Downtown Commercial* zoning district and would be subject to the height limitations necessary for the safe operation of Norman Y. Mineta San José International Airport.

The project proposes to demolish the existing two one-story commercial buildings and surface parking lots and construct a 19-story (204 feet tall) high-density apartment building, with 260 units (1,039 beds) and 14,781 square feet of ground floor retail. The project would have a FAR of 6.68.[22] The proposed, as proposed, is consistent with the General Plan and zoning designation as it is a mixed use development within the allowable height and density development standards. **[Same Impact as Approved Project (Less Than Significant Impact)]**

4.10.2.3 *Other Land Use Impacts (Checklist Question c)*

Shade and Shadow

The proposed development includes a 19-story apartment building with a maximum height of 204 feet. The City of San José typically identifies shade and shadow impacts as occurring when a building or other structure substantially reduces natural sunlight on public open spaces. Pursuant to the Downtown Strategy EIR, a project would have a shade and shadow impact if it would:

- Result in a 10 percent or greater increase in the shadow cast onto any one of the six major open spaces areas in the Downtown San José area (St. James Park, Plaza de Caesar Chavez, Paseo de San Antonio, Guadalupe River Park, McEnery Park, or Plaza of the Palms; or
- Substantially shade other public open space (beyond the six major open space areas) but excluding streets and sidewalks or private open space between September and March.

The proposed project is not in proximity to the six major downtown open space areas. The nearest open space area would be the pedestrian mall at the eastern end of East San Carlos Street, within the San José State University campus. Due to the distance between the project site and the pedestrian

[22] 425,296/63,622 square feet

mall (approximately 465 feet), the project would not substantially shade the area. Therefore, the shadows cast by the proposed building would have a less than significant impact. **[Same Impact as Approved Project (Less Than Significant Impact)]**

Habitat Conservation Plan/Natural Community Conservation Plan Impacts

The proposed project would not conflict with any applicable habitat conservation plan or natural community conservation plan. Please see *Section 4.4, Biological Resources* for a complete discussion. **[Same Impact as Approved Project (Less Than Significant Impact)]**

4.10.3 Conclusion

Implementation of the project would not physically divide an established community. **[Same Impact as Approved Project (Less Than Significant Impact)]**

The project would not conflict with a land use plan, policy, or regulation. Implementation of the project would not result in new or more significant land use impacts than disclosed in the Downtown Strategy EIR and General Plan EIR. **[Same Impact as Approved Project (Less Than Significant Impact)]**

4.11 MINERAL RESOURCES

4.11.1 Setting

The Santa Clara Valley was formed when sediments derived from the Santa Cruz Mountains and the Mount Hamilton-Diablo Range were exposed by continuous tectonic uplift and regression of the inland sea that had previously inundated the area. As a result of this process, the topography of the City is relatively flat and there are no significant mineral resources.

The State Mining and Geology Board under the Surface Mining and Reclamation Act of 1975 (SMARA) has designated an area of Communications Hill in Central San José, bounded by the Union Pacific Railroad, Curtner Avenue, State Route 87, and Hillsdale Avenue, as a regional source of construction aggregate materials. Other than the Communications Hills area, San José does not have mineral deposits subject to SMARA.

4.11.2 Checklist and Discussion of Impacts

	New Potentially Significant Impact	New Less Than Significant With Mitigation Incorporated	New Less Than Significant Impact	Same Impact as "Approved Project"	Less Impact than "Approved Project"	Checklist Source(s)
Would the project:						
a) Result in the loss of availability of a known mineral resource that will be of value to the region and the residents of the state?	☐	☐	☐	☒	☐	1-4
b) Result in the loss of availability of a locally-important mineral resource recovery site delineated on a local general plan, specific plan or other land use plan?	☐	☐	☐	☒	☐	1-4

Similar to the site development evaluated in the Downtown Strategy EIR and the General Plan EIR, the proposed project would have no impact on mineral resources impacts, as described in the discussion that follows.

4.11.2.1 *Impacts to Mineral Resources (Checklist Questions a and b)*

The physical distance between the project site and the Communications Hill area is approximately 3.7 miles. Implementation of the project would not result in impacts to known mineral resources. **[Same Impact as Approved Project (No Impact)]**

4.11.3 Conclusion

The project would not result in a significant impact from the loss of availability of a known mineral resource. **[Same Impact as Approved Project (No Impact)]**

4.12 NOISE AND VIBRATION

4.12.1 Setting

4.12.1.1 *Background Information*

Noise is typically defined as unwanted sound and is subjective due to varying tolerances. Acceptable levels of noise also vary from land use to land use. In any one location, the noise level would vary over time, from the lowest background or ambient noise level to temporary increases caused by traffic or other sources. State and Federal standards have been established as guidelines for determining the compatibility of a particular land use with its noise environment.

Sound levels are usually measured in decibels (dB) with dB corresponding roughly to the threshold of hearing. Most of the sounds which we hear in the environment do not consist of a single frequency, but rather a broad band of frequencies, with each frequency differing in sound level. The intensities of each frequency add together to generate a sound. The method commonly used to quantify environmental sounds consists of evaluating all of the frequencies of a sound in accordance with a weighting that reflects the fact that human hearing is less sensitive at low frequencies and extreme high frequencies than in the frequency mid-range. This is called "A" weighting, and the dB level measured is call the A-weighted sound level (dBA).

Because sound levels can vary markedly over a short period of time, a method for describing either the average character of the sound or the statistical behavior of the variations must be utilized. Most commonly, environmental sounds are described in terms of an average level that has the same acoustical energy as the summation of all the time-varying events. This energy-equivalent sound/noise descriptor is called L_{eq}. The most common averaging period is hourly, but L_{eq} can describe any series of noise events of arbitrary duration.

Although the A-weighted noise level may adequately indicate the level of environmental noise at any instant in time, community noise levels vary continuously. Most environmental noise includes a conglomeration of noise from distant sources which create a relatively steady background noise in which no particular source is identifiable. To describe the time-varying character of environmental noise, the statistical noise descriptors, L_{01}, L_{10}, L_{50}, and L_{90}, are commonly used. They are the A-weighted noise levels equaled or exceeded during 1, 10, 50, and 90 percent of a stated time period.

Sound level meters can accurately measure environmental noise levels to within about plus or minus one dBA. Since the sensitivity to noise increases during the evening hours, 24-hour descriptors have been developed that incorporate artificial noise penalties added to quiet-time noise events. The Day/Night Average Sound Level, *DNL*, is the average A-weighted noise level during a 24-hour day, obtained after the addition of 10 dB to noise levels measured in the nighttime between 10:00 PM and 7:00 AM.

The most widespread and continual sources of noise in San José are transportation and transportation-related facilities. Freeways, local arterials, aircrafts associated with the Norman Y. Mineta San José International Airport, railroads, and Light Rail Transit are all major contributors to noise in downtown San José.

Construction Noise

Construction is a temporary source of noise impacting residences and businesses located near construction sites. Construction noise can be significant for short periods of time with grading and excavation generating the highest noise levels and lower noise levels occurring during building construction. Large pieces of earth-moving equipment, such as graders, scrapers, and bulldozers, generate maximum noise levels of 85 to 90 dBA at a distance of 50 feet. Typically, hourly average construction-generated noise levels are approximately 80 to 85 dBA measured at a distance of 50 feet from the site during busy construction periods. Some construction techniques, such as impact pile driving, can generate very high levels of noise (105 dBA L_{max} at 50 feet) that are difficult to control. Construction activities can elevate noise levels at adjacent businesses and residences by 15 to 20 dBA or more during construction hours.

Background Information – Vibration

Ground vibration consists of rapidly fluctuating motions or waves with an average motion of zero. Several different methods are typically used to quantify vibration amplitude. One is the Peak Particle Velocity (PPV) and another is the Root Mean Square (RMS) velocity. The PPV is defined as the maximum instantaneous positive or negative peak of the vibration wave. The RMS velocity is defined as the average of the squared amplitude of the signal. The PPV and RMS vibration velocity amplitudes are used to evaluate human response to vibration. In this section, a PPV descriptor with units of inches per second (in/sec) is used to evaluate construction generated vibration for building damage and human complaints. Table 4.12-1 shows the general reactions of people and the effects on building that continuous vibration levels produce. As with noise, the effects of vibration on individuals is subjective due to varying tolerances.

Table 4.12-1: Effects of Vibration

PPV (in/sec)	Human Reaction	Effect on Buildings
0.01	Barely perceptible	No effect
0.04	Distinctly perceptible	Vibration unlikely to cause damage of any type to any structure
0.08	Distinctly perceptible to strongly perceptible	Recommended upper level of vibration to which ruins and ancient monuments should be subjected
0.1	Strongly perceptible	Virtually no risk of damage to normal buildings
0.3	Strongly perceptible to severe	Threshold at which there is a risk of damage to older residential dwellings such as plastered walls or ceilings.
0.5	Severe – vibration considered unpleasant	Threshold at which there is a risk of damage to newer residential structures.

Source: Caltrans. *Transportation and Construction-Induced Vibration Guidance Manual*. June 2004.

Low-level vibrations frequently cause irritating secondary vibration, such as a slight rattling of windows, doors, etc. The rattling sound can give rise to exaggerated vibration complaints, even though there is little risk of actual structural damage. In high noise environments, which are more prevalent where groundborne vibration approaches perceptible levels, this rattling phenomenon may also be produced by loud airborne environmental noise causing induced vibration in exterior doors and windows.

Construction activities can cause vibration that varies in intensity depending on several factors. The use of pile driving and vibratory compaction equipment typically generates the highest construction related

groundborne vibration levels. Because of the impulsive nature of such activities, the use of the PPV descriptor has been routinely used to measure and assess groundborne vibration and almost exclusively to assess the potential of vibration to induce structural damage and the degree of annoyance for humans.

The two primary concerns with construction-induced vibration, the potential to damage a structure and the potential to interfere with the enjoyment of life are evaluated against different vibration limits. Studies have shown that the threshold of perception for average persons is in the range of 0.008 to 0.012 in/sec PPV. Human perception to vibration varies with the individual and is a function of the physical setting and the type of vibration. Persons exposed to elevated ambient vibration levels, such as in an urban environment, may tolerate higher vibration levels.

Structural damage can be classified as cosmetic, such as minor cracking of building elements, or may threaten the integrity of the building. Safe vibration limits that can be applied to assess the potential for damaging a structure vary by researcher and there is no general consensus as to what amount of vibration may pose a threat for structure damage to a building. Construction-induced vibration that can be detrimental to a building is very rare and has only been observed in instances where the structure in a high state of disrepair and the construction activities occur immediately adjacent to the structure.

4.12.1.2 *Applicable Noise Standards and Policies*

General Plan

The Envision San José 2040 General Plan includes policies applicable to the proposed project. The City's noise and land use compatibility guidelines are shown in Table 4.12-2, below.

Table 4.12-2: Land Use Compatibility Guidelines for Community Noise in San José

Land Use Category	Exterior DNL Value in Decibels					
	55	60	65	70	75	80
1. Residential, Hotels and Motels, Hospitals and Residential Care[1]						
2. Outdoor Sports and Recreation, Neighborhood Parks and Playgrounds						
3. Schools, Libraries, Museums, Meeting Halls, and Churches						
4. Office Buildings, Business Commercial, and Professional Offices						
5. Sports Arena, Outdoor Spectator Sports						
6. Public and Quasi-Public Auditoriums, Concert Halls, and Amphitheaters						

[1]Noise mitigation to reduce interior noise levels pursuant to Policy EC-1.1 is required.

Normally Acceptable:
Specified land use is satisfactory, based upon the assumption that any buildings involved are of normal conventional construction, without any special noise insulation requirements.

Conditionally Acceptable:
Specified land use may be permitted only after detailed analysis of the noise reduction requirements and noise mitigation features included in the design.

Unacceptable:
New construction or development should generally not be undertaken because mitigation is usually not feasible to comply with noise element policies. Development will only be considered when technically feasible mitigation is identified that is also compatible with relevant design guidelines.

Policy EC-1.1: Locate new development in areas where noise levels are appropriate for the proposed uses. Consider federal, state and City noise standards and guidelines as a part of new development review. Applicable standards and guidelines for land uses in San José include:

Interior Noise Levels

The City's standard for interior noise levels in residences, hotels, motels, residential care facilities, and hospitals is 45 dBA DNL. Include appropriate site and building design, building construction and noise attenuation techniques in new development to meeting this standard. For sites with exterior noise levels of 60 dBA or more, an acoustical analysis following protocols in the City-adopted California Building Code is required to demonstrate that development projects can meet this standard. The acoustical analysis shall base required noise attenuation techniques on expected *Environmental General Plan* traffic volumes to ensure land use compatibility and General Plan consistency over the life of this plan.

Exterior Noise Levels

For new multi-family residential projects and for the residential component of mixed-use development, use a standard of 60 dBA DNL in usable outdoor activity areas, excluding balconies and residential stoops and porches facing existing roadways. Some common use areas that meet the 60 dBA DNL exterior standard will be available to all residents. Use noise attenuation techniques such as shielding by buildings and structures for outdoor common use areas. On sites subject to aircraft overflights or adjacent to elevated roadways, use noise attenuation techniques to achieve the 60 dBA DNL standard for noise from sources other than aircraft and elevated roadway segments.

Policy EC-1.2: Minimize the noise impacts of new development on land uses sensitive to increased noise levels by limiting noise generation and by requiring use of noise attenuation measures such as acoustical enclosures and sound barriers, where feasible. The City considers significant noise impacts to occur if a project would:

- Cause the DNL at noise sensitive receptors to increase by five dBA DNL or more where the noise levels would remain "Normally Acceptable"; or
- Cause the DNL at noise sensitive receptors to increase by three dBA DNL or more where noise levels would equal or exceed the "Normally Acceptable" level.

Policy EC-1.7: Construction operations within San José will be required to use best available noise suppression devices and techniques and limit construction hours near residential uses per the City's Municipal Code. The City considers significant construction noise impacts to occur if a project located within 500 feet of residential uses or 200 feet of commercial or office uses would:

- Involve substantial noise generating activities (such as building demolition, grading, excavation, pile driving, use of impact equipment, or building framing) continuing for more than 12 months.

For such large or complex projects, a construction noise logistics plan that specifies hours of construction, noise and vibration minimization measures, posting or notification of construction schedules, and designation of a noise disturbance coordinator who would respond to neighborhood

complaints will be required to be in place prior to the start of construction and implemented during construction to reduce noise impacts on neighboring residents and other uses.

Policy EC-2.3: Require new development to minimize vibration impacts to adjacent uses during demolition and construction. For sensitive historic structures, a vibration limit of 0.08 in/sec PPV (peak particle velocity) will be used to minimize the potential for cosmetic damage to a building. A vibration limit of 0.20 in/sec PPV will be used to minimize potential for cosmetic damage at buildings of normal conventional construction.

Municipal Code – Construction Standards

According to San José Municipal Code Title 20 (Zoning Ordinance), construction hours within 500 feet of a residential unit are limited to the hours of 7:00 a.m. to 7:00 p.m. on Monday through Friday, unless otherwise expressly allowed in a Development Permit or other planning approval. The Municipal Code does not establish quantitative noise limits for demolition or construction activities occurring in the City.

4.12.1.3 *Existing Noise Environment*

The project site is surrounded by a mix of retail/commercial and residential land uses. Noise levels in the project area are primarily influenced by vehicular noise on the surrounding roadways. The General Plan shows the project site as within the 60-65 dBA CNEL noise contour. Recent noise measurements taken on the roof of the nearby 360 Residential Tower[23] recorded ambient average daytime noise levels of 60-65 dBA and ambient average nighttime noise levels of 55-62 dBA, with a DNL of 66 dBA. Maximum daytime noise levels ranged from 75-90 dBA and maximum nighttime noise levels ranged from 70 to 82 dBA as a result of aircraft noise. The 360 Residential Tower is approximately 600 feet west of the project site and closer to the flight path for the Mineta San José International Airport.

The latest published operational noise contours (second quarter 2015) for Mineta San José International Airport indicate that the project site is outside of the current 65 dBA CNEL contour. According to the City's projected aircraft noise contours for the Airport, the project site would be exposed to an aircraft noise level of less than 60 dBA CNEL.

Sensitive Receptors

The nearest sensitive receptors are the apartments located approximately 60 feet south of the project site. Other sensitive receptors are located approximately 140 feet northeast of the project site, at the northeast corner of the East San Carlos Street/South Third Street intersection. The project would generate new sensitive receptors.

[23] Gateway Tower Mixed-Use Development Final Supplemental Environmental Impact Report, August 2016.

4.12.2 Checklist and Discussion of Impacts

	New Potentially Significant Impact	New Less Than Significant With Mitigation Incorporated	New Less Than Significant Impact	Same Impact as "Approved Project"	Less Impact than "Approved Project"	Checklist Source(s)
Would the project result in:						
a) Exposure of persons to or generation of noise levels in excess of standards established in the local general plan or noise ordinance, or applicable standards of other agencies?	☐	☐	☐	☒	☐	1-4
b) Exposure of persons to, or generation of, excessive groundborne vibration or groundborne noise levels?	☐	☐	☐	☒	☐	1-4
c) A substantial permanent increase in ambient noise levels in the project vicinity above levels existing without the project?	☐	☐	☐	☒	☐	1-4
d) A substantial temporary or periodic increase in ambient noise levels in the project vicinity above levels existing without the project?	☐	☐	☐	☒	☐	1-4
e) For a project located within an airport land use plan or, where such a plan has not been adopted, within two miles of a public airport or public use airport, will the project expose people residing or working in the project area to excessive noise levels?	☐	☐	☐	☒	☐	1-4
f) For a project within the vicinity of a private airstrip, will the project expose people residing or working in the project area to excessive noise levels?	☐	☐	☐	☒	☐	1-4

Based on the applicable noise standards and policies for the site, a significant noise impact would result if exterior noise levels at the proposed residential uses exceed 60 dBA DNL and/or if interior day-night average noise levels exceed 45 dBA DNL (General Plan policy EC-1.1).

In conformance with the Downtown Strategy EIR and General Plan EIR, the project would be constructed according to with General Plan policies and Zoning Ordinance requirements. Impacts as a result of noise would be less than significant, consistent with the Downtown Strategy EIR and General Plan EIR, as described below.

The CEQA Guidelines state that a project would normally be considered to have a significant impact if noise levels conflict with adopted environmental standards or plans, or if noise levels generated by the project would substantially increase existing noise levels at noise-sensitive receivers on a permanent or temporary basis. CEQA does not define what noise level increase would be substantial. A three dBA noise level increase is considered the minimum increase that is perceptible to the human ear. Typically, project generated noise level increases of three dBA DNL or greater are considered significant where resulting exterior noise levels will exceed the normally acceptable noise level standard. Where noise levels would remain at or below the normally acceptable noise level standard with the project, a noise level increase of five dBA DNL or greater is considered significant.

City of San José Standards

The City of San José relies on the following guidelines for new development to avoid impacts above the CEQA thresholds of significance outlined above.

Construction Noise

For temporary construction-related noise to be considered significant, construction noise levels would have to exceed ambient noise levels by five dBA L_{eq} or more and exceed the normally acceptable levels of 60 dBA L_{eq} at the nearest noise-sensitive land uses or 70 dBA L_{eq} at office or commercial land uses for a period of more than 12 months.

Operational Noise

Development allowed by the General Plan would result in increased traffic volumes along roadway throughout San José. The City of San José considers a significant noise impact to occur where existing noise sensitive land uses would be subject to permanent noise level increases of three dBA DNL or more where noise levels would equal or exceed the "Normally Acceptable" level, or five dBA DNL or more where noise levels would remain "Normally Acceptable".

Construction Vibration

A significant impact would be identified if the construction of the project would expose persons to excessive vibration levels. A conservative vibration limit of 5.0 mm/sec (0.2 inches/sec), PPV has been used for buildings that are found to be structure sounds but structural damage is a major concern. For historic buildings or buildings that are documented to be structurally weakened, a conservative limit of 2.0 mm/sec (0.08 inches/sec), PPV is used to provide the highest level of protection.

4.12.2.1 *Noise Impacts from the Project (Checklist Question a – d)*

Project Generated Traffic Noise Impacts

An increase of three dBA is considered substantial in noise sensitive areas along roadways. Vehicular traffic on roadways in the City are anticipated to increase as development occurs and the population increases; however, the proposed project would have to double the existing traffic volume in the area to substantially increase noise levels (by three dBA or more). Traffic trips resulting from

the project are not sufficient to double traffic volumes on the local roadways (Refer to Section 4.16 Transportation/Traffic for discussion) and, as a result, the project would have no long-term traffic noise impact. **[Les Impact as Approved Project (No Impact)]**

Operational Noise Impacts

The Downtown Strategy EIR concluded that proposed development could result in long-term noise impacts from mechanical equipment and other on-site sources (air conditioning or other mechanical ventilation equipment, delivery loading docks or areas, emergency generators, etc.), which could emanate beyond the site boundaries. The proposed project is a mixed use development consisting of residential and retail uses and it would include various mechanical equipment such as air conditions, exhaust fans, pool equipment, etc., that could increase ambient noise levels in the immediate project vicinity.

At this time, the exact location and type of mechanical equipment is unknown. The most substantial noise generating equipment would likely be large exhaust fans and air conditioning units. Pursuant to General Plan Policy EC-1.3, noise levels from building equipment would be limited to 55 dBA DNL at the property line of receiving noise-sensitive land uses.

Consistent with the Downtown Strategy EIR and in accordance with the General Plan EIR, the proposed project would be required as a condition of project approval to implement the following measure:

Standard Permit Condition

- A detailed acoustical study shall be prepared during final building design to evaluate the potential noise generated by building mechanical equipment and demonstrate the necessary noise control to meet the city's 55 dBA DNL goal. Noise control features such as sound attenuators, baffles, and barriers shall be identified and evaluated to demonstrate that mechanical equipment noise would not exceed 55 dBA DNL at noise-sensitive locations around the project site. The noise control features identified by the study shall be incorporated in the project prior to issuance of a building permit.

With implementation of the standard permit condition, the project would have a less than significant operational noise impact. **[Same Impact as Approved Project (Less Than Significant Impact)]**

Construction Noise Impacts

Construction noise impacts depend on the noise generated by various pieces of construction equipment, the timing and duration of noise-generating activities, and the distance between construction noise sources and noise sensitive receptors. It is estimated the project would take approximately 29 months to construct. The construction of the proposed project would involve demolition of existing structures and pavement, site preparation, grading and excavation, trenching, building erection, and paving.

The construction of the proposed project would temporarily increase noise levels in the immediate vicinity of the project site. Consistent with the Municipal Code and in accordance with the General

Plan EIR, particularly Policy EC-1.7, the proposed project would be required to implement the following measures as Standard Permit Conditions during all phases of construction on the project site:

Standard Permit Conditions

- Construction activities shall be limited to the hours between 7:00 AM and 7:00 PM, Monday through Friday, unless permission is granted with a development permit or other planning approval. No construction activities are permitted on the weekends at sites within 500 feet of a residence (Municipal Code Section 20.100.450).
- Construct solid plywood fences around ground-level construction sites adjacent to operational businesses, hotels, and other noise-sensitive land uses.
- Equip all internal combustion engine-driven equipment with intake and exhaust mufflers that are in good condition and appropriate for the equipment.
- Unnecessary idling of internal combustion engines should be strictly prohibited.
- Locate stationary noise-generating equipment such as air compressors or portable power generators as far as possible from sensitive receptors. Construct temporary noise barriers to screen stationary noise-generating equipment when located near adjoining sensitive land uses. Temporary noise barriers could reduce construction noise levels by five dBA.
- Utilize "quiet" air compressors and other stationary noise sources where technology exists.
- Control noise from construction workers' radios to a point where they are not audible at existing residences bordering the project site.
- Notify all adjacent business, residences, and other noise-sensitive land uses of the construction schedule, in writing, and provide a written schedule of "noisy" construction activities to the adjacent land uses and nearby residences.
- A temporary noise control blanket barrier could be erected, if necessary, along building facades facing construction sites. This mitigation would only be necessary if conflicts occurred which were irresolvable by proper scheduling. Noise control blanket barriers can be rented and quickly erected.
- Consider the use of "acoustical blankets" for receptors located within 100 feet of the site during pile driving activities.
- Designate a "disturbance coordinator" who would be responsible for responding to any complaints about construction noise. The disturbance coordinator shall determine the cause of the noise complaint (e.g., bad muffler, etc.) and require that reasonable measures be implemented to correct the problem. Conspicuously post a telephone number for the disturbance coordinator at the construction site and include in it the notice sent to neighbors regarding the construction schedule.

With implementation of the identified Standard Permit Conditions, the project would have a less than significant impact on the temporary increase in ambient noise levels in the project area. **[Same Impact as Approved Project (Less Than Significant Impact)]**

Groundborne Vibration Impact

Pile driving would generate the highest ground borne vibration levels (approximately 0.644 in/sec PPV at 25 feet), but is not proposed by the project. Other construction activities such as drilling, use of jackhammers (approximately 0.035 in/sec PPV at 25 feet), rock drills and other high-power or vibratory tools (approximately 0.09 in/sec PPV at 25 feet), and rolling stock equipment such as tracked vehicles, compactors, etc. (approximately 0.89 in/sec PPV at 25 feet) may also generate substantial vibration in the immediate site vicinity. Construction of the building is not anticipated to be a source of substantial vibration and construction vibration would not be substantial for the majority of the construction schedule.

There are no sensitive historic buildings adjacent to the project site. The nearest historic buildings are the residents located approximately 95 feet east of the site and the nearest conventional construction buildings are located approximately 60 feet south of the project site. In addition, there is a parking structure directly adjacent to the site. According to Policy EC-2.3 of the City of San José General Plan, a vibration limit of 0.08 in/sec PPV for historic structures and 0.20 in/sec PPV for building of conventional construction shall be used to minimize damage. If pile driving were to be used as a method of construction, the upper range of impact pile driving would exceed the City's threshold with levels up to 0.252 in/sec PPV, with typical impact pile driving levels of 0.140 in/sec PPV at a distance of 100 feet. Other than impact pile driving, construction activities would not generate vibration levels exceeding 0.2 in/sec PPV at these structures.

Impact NOI-1.1: Pile driving could cause vibration levels in excess of City standards and result in physical damage to nearby structures. **(Significant Impact)**

The following mitigation measure would reduce impacts to surrounding structures as a result of vibration.

MM NOI-1.1: If piles are utilized for project construction, the project applicant shall ensure that only drilled piers or rammed aggregate piers will be used. This measure shall be printed on construction plans prior to the issuance of any grading or building permits.

With implementation of the identified mitigation measure, the project would have a less than significant construction vibration impact.

[Same Impact as Approved Project (Less Than Significant Impact)]

4.12.2.2 *Airport Noise (Checklist Questions e and f)*

Norman Y. Mineta San José International Airport is located approximately 2.1 miles north of the project site. The project site is not located within the AIA and the noise impact area of the Norman Y. Mineta San José International Airport. Therefore, the proposed project would not expose people

in the project area to excessive airport noise levels. **[Same Impact as Approved Project (Less Than Significant Impact)]**

4.12.2.3 *Existing Noise Conditions Affecting the Project (Checklist Questions a, b, e, f)*

The California Supreme Court in a December 2015 opinion (*BIA v. BAAQMD*) confirmed CEQA is concerned with the impacts of a project on the environment, not the effects the existing environment may have on a project; nevertheless the City has policies that address existing conditions (e.g. noise) affecting a proposed project, which are addressed below.

The policies of the City of San José 2040 General Plan have been adopted for the purpose of avoiding or mitigating environmental effects resulting from planned development within the City. City Policy EC-1.1 requires new development to be located in areas where noise levels are appropriate for the proposed uses, considering Federal, State and City noise standards and guidelines as a part of new development review. Within the City of San José, applicable noise standards and guidelines for land uses include:

Interior Noise Levels

- The City's standard for interior noise levels in residences, hotels, motels, residential care facilities, and hospitals is 45 dBA DNL. Include appropriate site and building design, building construction and noise attenuation techniques in new development to meet this standard. For sites with exterior noise levels of 60 dBA DNL or more, an acoustical analysis following protocols in the City-adopted California Building Code is required to demonstrate that development projects can meet this standard. The acoustical analysis shall base required noise attenuation techniques on expected *Envision General Plan* traffic volumes to ensure land use compatibility and General Plan consistency over the life of this plan.

Exterior Noise Levels

- The City's acceptable exterior noise level objective is 60 dBA DNL or less for residential and most institutional land uses.

- For new multi-family residential projects and for the residential component of mixed-use development, use a standard of 60 dBA DNL in usable outdoor activity areas, excluding balconies and residential stoops and porches facing existing roadways. Some common use areas that meet the 60 dBA DNL exterior standard would be available to all residents. Use noise attenuation techniques such as shielding by buildings and structures for outdoor common use areas.

Future Exterior Noise Environment

Based on applicable noise standards and policies for the site, exterior noise levels should not exceed 60 dBA DNL and interior day-night average noise levels cannot exceed 45 dBA DNL (General Plan *Policy EC-1.1*). Existing noise sources generate average noise levels of up to 65 dBA DNL and maximum noise events of up to 82 dBA from aircraft.

As proposed, the project would have a fourth floor pool deck and common open space area and the third floor would have a common open space area. Some of the residential units would also have

balconies. Pursuant to General Plan Policy EC-1.1 private balconies in multi-family buildings are excluded from the City's noise standards and are not be discussed further.

Based on available data, the common exterior use areas on the project site would be exposed to noise levels in excess of 60 dBA DNL. While noise on the project site is due, in part, to aircraft flyovers, General Plan Policy EC-1.1 only requires noise attenuation techniques to achieve the 60 dBA DNL standard for noise from sources other than aircraft and elevated roadway segments.
As proposed, the building would shield the fourth floor open space area from noise sources to the north and east, including East San Carlos Street and South Third Street. Solid walls and an enclosed gym would shield the fourth floor area on the west and south sides. The third floor open space area would be shield on three sides by the proposed building and on the west side by a solid wall.

With the proposed design of the building and open space areas, the project would be consistent with the Downtown Strategy EIR and General Plan Policy EC-1.1.

Future Interior Noise Environment

The California Building Code and the City of San José General Plan require that interior noise levels be maintained at 45 dBA DNL or less for residences. The exterior traffic noise exposure would be up to 60-65 dBA DNL and aircraft noise could exceed 82 dBA DNL.

Interior noise levels would vary depending upon the design of the buildings (ratio of window area to wall area) and the selected construction materials and methods. For the proposed project, the interior noise levels with standard construction and windows open would be up to 50 dBA (without aircraft flyovers). This would exceed the City's threshold for interior noise.

The following conditions of approval would be required to ensure the project is consistent with applicable City policies:

Conditions of Approval

- Provide a suitable form of forced-air mechanical ventilation, as determined by the local building official, for all units so that windows can be kept closed to control noise.

- A qualified acoustical specialist shall prepare a detailed analysis of interior residential noise levels resulting from all exterior sources (transportation and non-transportation) during the design phase pursuant to requirements set forth in the State Building Code. The study shall also establish appropriate criteria for noise levels inside the commercial spaces affected by traffic noise. The study shall review the final site plan, building elevations, and floor plans prior to construction and recommend building treatments to reduce residential interior noise levels to 45 dBA DNL or lower and reduce levels to the established criteria for the commercial uses; and, address and adequately control the noise from rooftop equipment on the adjacent building. Treatments would include, but are not limited to, sound-rated windows and doors, acoustical caulking, protected ventilation openings, etc. The specific determination of what noise insulation treatments are necessary shall be completed on a unit-by-unit basis during final design of the project. Results of the analysis, including the

description of the necessary noise control treatments, shall be submitted to the City, along with the building plans and approved design, prior to issuance of a building permit.

With implementation of the conditions of approval, the project would meet the City's interior noise standards consistent with General Plan Policy EC-1.1.

4.12.3 Conclusion

With implementation of the proposed standard permit conditions, and conformance with General Plan policies, the project would have a less than significant noise impact. **[Same Impact as Approved Project (Less Than Significant Impact)]**

4.13 POPULATION AND HOUSING

Based on information from the Department of Finance E-5 report, the City of San José population was estimated to be approximately 1,042,094 in January 2016 with an average number of persons per household of 3.22.[24,25] The City currently has approximately 329,824 housing units and, by 2040, the City's population is projected to reach 1,445,000 with 472,000 households.[26,27]

The jobs/housing balance refers to the ratio of employed residents to jobs in a given community or area. When the ratio reaches 1.0, a balance is struck between the supply of local housing and jobs. The jobs/housing resident ratio is determined by dividing the number of local jobs by the number of employed residents that can be housed in local housing.

The Envision San José 2040 General Plan job growth (470,000 new jobs by the end of Horizon 5) would require substantial residential development elsewhere in the region to provide adequate housing for future workers.

4.13.1 Checklist and Discussion of Impacts

	New Potentially Significant Impact	New Less Than Significant With Mitigation Incorporated	New Less Than Significant Impact	Same Impact as "Approved Project"	Less Impact than "Approved Project"	Checklist Source(s)
Would the project:						
a) Induce substantial population growth in an area, either directly (for example, by proposing new homes and businesses) or indirectly (for example, through extension of roads or other infrastructure)?	☐	☐	☐	☒	☐	1-4
b) Displace substantial numbers of existing housing, necessitating the construction of replacement housing elsewhere?	☐	☐	☐	☒	☐	1-4
c) Displace substantial numbers of people, necessitating the construction of replacement housing elsewhere?	☐	☐	☐	☒	☐	1-4

[24] State of California, Department of Finance. E-1 Population Estimates for Cities, Counties and the State with Annual Percent Change – January 1, 2015 and 2016. May 2016. Available at: http://www.dof.ca.gov/Forecasting/Demographics/Estimates/e-1/ Accessed August 24, 2016.
[25] State of California, Department of Finance. Table 2: E-5 City/County Population and Housing Estimates, 1/1/2016. Available at: http://www.sanjoseca.gov/DocumentCenter/View/15743 Accessed August 24, 2016.
[26] Ibid.
[27] Center for the Continuing Study of the California Economy, *Projections of Jobs, Populations, and Households for the City of San José*, August 2008. http://www.sanjoseca.gov/DocumentCenter/View/3326. Accessed August 24, 2016.

Similar to the site development evaluated in the General Plan EIR and Downtown Strategy EIR, the proposed project would result in less than significant population and housing impacts, as described below.

4.13.1.1 *Impacts to Population and Housing (Checklist Questions a – c)*

The project would construct and apartment building with a total of 260 units. Assuming 3.22 persons per household, the project would generate a maximum of 837 new residents in the City of San José. Alternatively, if assumed to be fully occupied by students, the project would generate a maximum of 1,039 new residents (based on the number of beds).

The proposed 260 units would comprise a small portion of the 8,000 to 10,000 dwelling units already approved for the downtown area as well as the 120,000 new dwelling units planned for in the General Plan. While the project would increase housing within the City, it would not result in unplanned residential growth and it would not have an impact on the jobs/housing imbalance. **[Same as Approved Project (Less Than Significant Impact)]**

The project site was previously developed with two one-story commercial buildings and surface parking lots. The proposed project would not result in the displacement of people or necessitate the construction of housing elsewhere. **[Same as Approved Project (No Impact)]**

4.13.2 Conclusion

Implementation of the proposed project would not have a significant impact on population and housing. **[Same as Approved Project (Less Than Significant Impact)]**

4.14 PUBLIC SERVICES

4.14.1 Setting

4.14.1.1 *Fire Protection Services*

Fire protection services for the project are provided by the San José Fire Department (SJFD). SJFD responds to all fires, hazardous materials spills, and medical emergencies (including injury accidents) in the City. The closest station to the project site is Station No. 1, located at 225 North Market Street, 0.7 miles northwest of the project site. Emergency response is provided by 30 engine companies, nine truck companies, one urban search and rescue company, one hazardous incident team company, and numerous specialty teams and vehicles.

The General Plan identifies a service goal of a total response time of eight minutes and a total travel time of four minutes or less for 80 percent of emergency incidents.

4.14.1.2 *Police Protection Services*

Police protection services for the project site are provided by the San José Police Department (SJPD). Officers are dispatched from police headquarters, located at 201 West Mission Street. The police headquarters is located approximately 1.6 miles north of the project site.

The General Plan identifies a service goal of six minutes or less for 60 percent of all Priority 1 (emergency) calls and 11 minutes of less for 60 percent of all Priority 2 (nonemergency) calls.

4.14.1.3 *Schools*

The City of San José includes 22 public school districts that currently operate 222 public schools. The project site is located within the San José Unified School District (SJUSD). SJUSD has 27 elementary schools, six middle schools, and nine high schools in operation.

The nearest elementary school to the project site is Gardner Elementary School located approximately 0.8 miles southwest of the project site. The nearest middle school is Hoover Middle School located approximately two miles northwest of the project site. The nearest high school is Lincoln High School located approximately 2.1 miles northwest of the project site.

4.14.1.4 *Parks*

The City's Departments of Parks, Recreation, and Neighborhood Services is responsible for the development, operation, and maintenance of all City park facilities. The City of San José own approximately 187 neighborhood-serving parks and nine regional parks.

The City has a Parkland Dedication Ordinance (PDO) with the goal of providing 3.5 acres of neighborhood/community serving parkland per 1,000 residents anticipated to live in the proposed development. The General Plan estimated a population of 1,313,811 by 2035 which would increase the demand for park and recreational facilities and create a parkland deficit of 2,187.40 acres (including regional and local park lands).

The closest parks to the project site are Plaza De Cesar Chavez Park and O' Donnell Garden Park located approximately 0.2 west and 0.3 southeast from the project site, respectively.

4.14.1.5 *Libraries*

The San José Public Library is the largest public library system between San Francisco and Los Angeles. The San José Public Library System consists of one main library and 22 branch libraries. Residents in the project area are served by the Dr. Martin Luther King Jr. Main Library, located approximately 0.2 miles northeast of the site.

4.14.1.6 *Applicable Public Services Regulations and Policies*

The Envision San José 2040 General Plan includes the following policies applicable to the project:

Policy CD-5.5: Include design elements during the development review process that address security, aesthetics, and safety. Safety issues include, but are not limited to, minimum clearances around buildings, fire protection measures such as peak load water requirements, construction techniques, and minimum standards for vehicular and pedestrian facilities and other standards set forth in local, state, and federal regulations.

Policy ES-3.9: Implement urban design techniques that promote public and property safety in new development through safe, durable construction and publically-visible and accessible spaces.

Policy ES-3.11: Ensure that adequate water supplies are available for fire-suppression throughout the City. Require development to construct and include all fire suppression infrastructure and equipment needed for their projects.

Policy PR-1.1: Provide 3.5 acres per 1,000 population of neighborhood/community serving parkland through a combination of 1.5 acres of public park and 2.0 acres of recreational school grounds open to the public per 1,000 San José residents.

Policy PR-1.2: Provide 7.5 acres per 1,000 population of citywide/regional park and open space lands through a combination of facilities provided by the City of San José and other public land agencies.

Policy PR-1.9: As Village and Corridor areas redevelop, incorporate urban open space and parkland recreation areas through a combination of high-quality, publicly accessible outdoor spaces provided as a part of new development projects; privately or in limited instances publicly, owned and maintained pocket parks; neighborhood parks where possible; as well as through access to trails and other park and recreation amenities.

Policy PR-1.12: Regularly update and utilize San José's Parkland Dedication Ordinance/Parkland Impact Ordinance (PDO/PIO) to implement quality facilities.

Policy PR-2.4: To ensure that residents of a new project and existing residents in the area benefit from new amenities, spend Park Dedication Ordinance (PDO) and Park Impact Ordinance (PIO) fees for neighborhood serving elements (such as playgrounds/tot-lots, basketball courts, etc.) within a ¾ mile radius of the project site that generates the funds.

Policy PR-2.5: Spend, as appropriate, PDO/PIO fees for community serving elements (such as soccer fields, community gardens, community centers, etc.) within a 3-mile radius of the residential development that generates the PDO/PIO funds.

Policy PR-2.6: Locate all new residential development over 200 units in size within 1/3 of a mile walking distance of an existing or new park, trail, open space or recreational school grounds open to the public after normal school hours or shall include one or more of these elements in its project design.

4.14.2 Checklist and Discussion of Impacts

	New Potentially Significant Impact	New Less Than Significant With Mitigation Incorporated	New Less Than Significant Impact	Same Impact as "Approved Project"	Less Impact than "Approved Project"	Checklist Source(s)
Would the project						
a) Result in substantial adverse physical impacts associated with the provision of new or physically altered governmental facilities, the need for new or physically altered governmental facilities, the construction of which could cause significant environmental impacts, in order to maintain acceptable service ratios, response times or other performance objectives for any of the public services:						
- Fire Protection?	☐	☐	☐	☒	☐	1-4
- Police Protection?	☐	☐	☐	☒	☐	1-4
- Schools?	☐	☐	☐	☒	☐	1-4
- Parks?	☐	☐	☐	☒	☐	1-4
- Other Public Facilities?	☐	☐	☐	☒	☐	1-4

Similar to the site development evaluated in the General Plan EIR and Downtown Strategy EIR, the proposed project would result in less than significant population and housing impacts, as described below.

4.14.2.1 ***Impacts to Public Services*** *(Checklist Question a)*

Fire Protection Services

The proposed project would increase the resident population of San José and the proposed ground floor retail would increase the total population during standard business hours, but may not permanently increase the resident population. The project is consistent with the planned growth in the General Plan.

The proposed project would be constructed in accordance with current building codes and would be required to be maintained in accordance with applicable City policies identified in the General Plan to avoid unsafe building conditions and promote public safety. The proposed development would not require new fire stations to be constructed or existing fire stations to be expanded to serve the development while maintaining City service goals. **[Same Impact as Approved Project (Less Than Significant Impact)]**

Police Protection Services

The proposed project would increase the resident population of San José and the proposed ground floor retail would increase the total population during standard business hours, but may not permanently increase the resident population. The project is consistent with the planned growth in the General Plan and the increased population would not result in demand for services beyond the capabilities of the department.

The proposed project would be constructed in accordance with current building codes and would be required to be maintained in accordance with applicable City policies identified in the General Plan EIR to avoid unsafe building conditions and promote public safety. The proposed development would not require new police stations to be constructed or existing police stations to be expanded to serve the development while maintaining City service goals. **[Same Impact as Approved Project (Less Than Significant Impact)]**

Schools

The General Plan anticipates approximately 11,079 new students to be generated in the SJUSD. The Downtown Strategy estimated a maximum generation of 5,000 students in the SJUSD. Based on the student generation rates for SJUSD[28,29], future residential development on-site would generate 36 new elementary school students, 15 middle school students, and two high school students in the school district. The General Plan includes specific policies to ensure that school services are maintained at adequate levels. The SJUSD has closed and/or leased sites that could be made available again to aid in accommodating students generated by the proposed development.

The project is part of the planned growth in the City and would not increase students in the SJUSD beyond what was anticipated in the General Plan and Downtown Strategy. While the project would increase the number of students attending local schools, the General Plan EIR concluded that implementation of applicable General Plan policies and programs and payment of impact fees would reduce impacts to local schools to a less than significant level. **[Same Impact as Approved Project (Less Than Significant Impact)]**

[28] Multi-family residential development generates approximately 0.139 elementary students, 0.059 middle school students, and 0.074 high school students per unit.
[29] Student generation rates for San José Unified School District was provided by the school district via personal communication with Jill Case, Director of Student Operational Services (March 1, 2016).

Parks

The proposed project would construct a 19-story apartment building, with 260 units and ground floor retail. The Downtown Strategy 2000 would create up to 10,000 additional dwelling units, which would result in an 87.5-acre deficiency of parkland under the City's PDO. The Downtown Strategy EIR and General Plan EIR concluded that the City's PDO would be satisfied through several ways including: dedication of land; payment of in-lieu fees; credit for qualifying recreational private recreational amenities (based upon project design); and/or credit for improvement costs to parkland or recreational facilities. Because the proposed 260-units have been accounted for in the General Plan and the project would comply with PDO requirements, implementation of the proposed project would not result in substantial adverse physical impacts to park facilities in San José. In addition, the project proposes a pool deck, a fitness center, ping pong tables, and bocce ball courts. These on-site facilities may reduce some use of public parks in the area. The proposed project would not increase the use of existing parks or other recreational facilities such that substantial physical deterioration would occur. **[Same Impact as Approved Project (Less Than Significant Impact)]**

Libraries

The Dr. Martin Luther King Junior Main Library is located on the corner of San Fernando and Fourth Streets in downtown San José. Development approved under the City's General Plan would increase the City's residential population to 1,313,811. The City's existing and planned facilities would provide approximately 0.7 square feet of library space for the anticipated population under the proposed General Plan by 2035.

The General Plan EIR concluded that development and redevelopment allowed under the proposed General Plan would be adequately served by existing and planned library facilities. The increased residents at the project site were analyzed as part of the City's General Plan and as part of the Downtown Strategy plan and, as part of the planned residential growth in the City. Therefore, implementation of the project would not result in significant impacts to library facilities in the San José. **[Same Impact as Approved Project (Less Than Significant Impact)]**

4.14.3 Conclusion

Implementation of the proposed project would not result in significant impacts to public services in the City of San José or require the construction of new facilities. The project would not impact existing schools, or libraries. **[Same Impact as Approved Project (Less Than Significant Impact)]**

4.15 RECREATION

4.15.1 Setting

The City of San José currently operates 187 neighborhood parks, 51 community centers, nine regional parks, and over 57 miles of urban trails. The City's Departments of Parks, Recreation, and Neighborhood Services is responsible for the development, operation, and maintenance of all City park facilities. Amenities within the neighborhood parks can include basketball courts, exercise courses, picnic tables, playgrounds, restrooms, soccer fields, softball fields, swimming pools, and tennis courts.

The closest parks to the project site are Plaza De Cesar Chavez Park and O' Donnell Garden Park located approximately 0.2 west and 0.3 southeast from the project site, respectively. Plaza de Cesar Chavez is a 2.2-acre park that contains a picnic area, a children's water play feature, and restroom facilities. O' Donnell Garden Park is a 0.5-acre park that contains a children's water play feature and two playgrounds.

4.15.1.1 *Applicable Recreation Regulations and Policies*

The Envision San José 2040 General Plan includes the following policies applicable to the project:

Policy PR-1.1: Provide 3.5 acres per 1,000 population of neighborhood/community serving parkland through a combination of 1.5 acres of public parks and 2.0 acres of recreational school grounds open to the public per 1,000 San José residents.

Policy PR-1.2: Provide 7.5 acres per 1,000 population of citywide/regional park and open space lands through a combination of facilities provided by the City of San José and other public land agencies.

Policy PR-1.3: Provide 500 square feet per 1,000 population of community center space.

Policy PR-2.4: To ensure that residents of a new project and existing residents in the area benefit from new amenities, spend Park Dedication Ordinance (PDO) and Park Impact Ordinance (PIO) fees for neighborhood serving elements (such as playgrounds/tot-lots, basketball courts, etc.) within a ¾ mile radius of the project site that generates the funds.

Policy PR-2.5: Spend, as appropriate, PDO/PIO fees for community serving elements (such as soccer fields, community gardens, community centers, etc.) within a 3-mile radius of the residential development that generates the PDO/PIO funds.

Policy PR-2.6: Locate all new residential developments over 200 units in size within 1/3 of a mile walking distance of an existing or new park, trail, open space, or recreational school grounds open to the public after normal school hours or shall include one or more of these elements in its project design.

4.15.2 Checklist and Discussion of Impacts

		New Potentially Significant Impact	New Less Than Significant With Mitigation Incorporated	New Less Than Significant Impact	Same Impact as "Approved Project"	Less Impact than "Approved Project"	Checklist Source(s)
a)	Would the project increase the use of existing neighborhood and regional parks or other recreational facilities such that substantial physical deterioration of the facility will occur or be accelerated?	☐	☐	☐	☒	☐	1-4
b)	Does the project include recreational facilities or require the construction or expansion of recreational facilities which might have an adverse physical effect on the environment?	☐	☐	☐	☒	☐	1-4

4.15.2.1 *Impacts to Recreational Facilities (Checklist Question a and b)*

Future residential development on-site could increase the demand for parks and other recreational facilities in the project area. The Downtown Strategy EIR concluded that the PDO would be satisfied in several ways including: dedication of land, payment of in-lieu fees, credit for improvement costs to parkland, and/or credit for qualifying private recreation amenities in the project. While the increased population would result in increased use of recreational facilities within the City, including local parks, trails, and community centers, these recreational facilities would be maintained and expanded through application of PDO/PIO fees in accordance with General Plan policies. In addition, the project proposes a recreational deck, which would include a pool, spa, two bocce ball courts, and a lounge and dining area. Implementation of the project would not result in substantial physical deterioration or construction or expansion of recreational facilities. **[Same Impact as Approved Project (Less Than Significant Impact)]**

4.15.3 Conclusion

The project would not result in significant impacts to recreational facilities in the City of San José. **[Same Impact as Approved Project (Less Than Significant Impact)]**

4.16 TRANSPORTATION/TRAFFIC

The following discussion is based upon a Traffic Operations Analysis prepared by *Hexagon Transportation Consultants, Inc.* in January 2017. A copy of this report is included in Appendix F of this document.

4.16.1 Setting

Regional access to the project site is provided by Interstate 280 (I-280). The regional roadway is described below.

I-280 is an eight-lane freeway that extends northwest to San Francisco and east to King Road in San José. Access to and from the project site is provided via its ramps at South First, South Fourth, South Sixth, and South Seventh Streets.

Local access to the project site is provided by South Third Street, South Second Street, East San Salvador Street, and East San Carlos Street.

South Third Street is a two-lane, one-way street with a bike lane in the northbound direction. South Third Street runs along the eastern project frontage and provides access to the project site.

South Second Street is a two-lane, one-way street with a bike lane in the southbound direction. South Second Street runs along the western project frontage and provides direct access to the project site via a left-turn only driveway.

East San Salvador Street is an east-west two-lane street that provides shared bike lanes. East San Salvador Street provides access from the project site via South Second Street.

East San Carlos Street is an east-west four-lane street that runs along the project's northern frontage. It extends as West San Carlos Street from First Street westward to Bascom Avenue, where it transitions into Stevens Creek Boulevard.

4.16.1.1 *Existing Pedestrian and Bicycle Facilities*

Pedestrian facilities in the project area consist of sidewalks along all surrounding streets, including East San Carlos Street, South Second Street, and South Third Street. All signalized intersections within the project area have crosswalks with pedestrian signal heads. Overall, the existing sidewalks have good connectivity and provide pedestrians with safe routes to the surrounding land uses.

Class II bicycle facilities are provided on South Second Street, south of San Salvador Street, South Third Street, and South Fourth Street. East San Carlos Street, between Fourth Street and Woz Way, and Second Street, north of San Salvador Street, are designated Class III bike paths. In addition, the extent of San Salvador Street, South First Street, South Second Street, and north of San Salvador Street are designated Class III bike paths.

The Guadalupe River Park Trail, located approximately 0.4 miles west of the site, is an 11-mile continuous Class I bikeway extending from Curtner Avenue in the south to Alviso in the north. The trail can be accessed via West San Carlos Street and South Almaden Boulevard.

The City of San José has developed a public Bike Share system that allows users to rent and return bicycles at various locations. Bike Share locations are provided throughout the downtown area. The nearest bike share station is within walking distance, at the intersection of South Fourth Street and East San Carlos Street.

In addition, the City of San José has a Zipcar program that provides vehicles to individuals for hourly or daily use. Zipcar locations are provided throughout downtown for use by individuals who have Zipcar accounts. The nearest Zipcar station is within walking distance, near South Third Street and the Paseo De San Antonio Walk. Figure 4.16-1 shows existing bicycle facilities, including bike lanes, bike share locations, and Zipcar locations in the project area.

4.16.1.2 *Existing Transit Service*

Existing transit services in the study area are provided by the Santa Clara Valley Transportation Authority (VTA), Caltrain, Altamont Commuter Express (ACE), and Amtrak.

Bus Service

The downtown area is served by many local bus lines. The bus lines that operate within one-quarter mile walking distance of the project site are listed in Table 4.16-1.

Table 4.16-1: Existing Bus Service Near the Project Site

Route	Route Description	Headway (minutes)
Local Route 23	De Anza College to Alum Rock Transit Center via Stevens Creek	12
Local Route 66	Kaiser San José Medical Center to Dixon Landing Road (Milpitas)	15
Local Route 68	Gilroy Transit Center to San José Diridon Station	15-20
Local Route 82	Westgate to Downtown San José	30
Express Route 168	Gilroy Transit Center to San José Diridon Station	30
Limited Stop Route 304	Santa Teresa Light Rail Transit (LRT) Station to Sunnyvale Transit Center	30
Limited Stop Route 323	Downtown San José to De Anza College	15

VTA LRT Service

The VTA currently operates the VTA light rail line system extending from San José through downtown to the northern areas of San José, Santa Clara, Milpitas, Mountain View, and Sunnyvale. The light rail operates nearly 24-hours per day with 15-minute headways during much of the day.

The Mountain View-Winchester and Alum Rock-Santa Teresa LRT lines operate along First and Second Streets, north of San Carlos Street. The San Antonio LRT Station is located within walking distance of the project site. The San José Diridon station is located along the Mountain View-Winchester LRT line and is served by Caltrain, ACE, and Amtrak.

Source: Hexagon Transportation Consultants Inc.

EXISTING BICYCLE FACILITIES FIGURE 4.16-1

Caltrain Service

Commuter rail service between San Francisco and Gilroy is provided by Caltrain, which currently operates 92 weekday trains that carry approximately 47,000 riders on an average weekday. The project site is located approximately 1.5 miles from the San José Diridon Station. Trains stop frequently at the Diridon station between 4:30 AM and 10:30 PM in the northbound direction, and between 6:28 AM and 1:34 AM in the southbound direction. Caltrain provides passenger train service seven days a week, and provides extended service to Morgan Hill and Gilroy during weekday commute hours.

Altamont Commuter Express Service

The ACE provides commuter rail service between Stockton, Tracy, Pleasanton, and San José during commute hours, Monday through Friday. Service is limited to four westbound trips in the morning and four eastbound trips in the afternoon/evening with headways averaging 60 minutes. ACE trains stop at the Diridon Station between 6:32 AM and 9:17 AM in the westbound direction, and between 3:35 PM and 6:38 PM in the eastbound direction.

Amtrak Service

Amtrak provides daily commuter passenger train service along the 170-mile Capitol Corridor between the Sacramento region and the Bay Area, with tops in San José, Santa Clara, Fremont, Hayward, Oakland, Emeryville, Berkeley, Richmond, Martinez, Suisun City, Davis, Sacramento, Roseville, Rocklin, and Auburn. The Capitol Corridor trains stop at the San José Diridon Station eight times during the weekdays between approximately 7.38 AM and 11:55 PM in the westbound direction. In the eastbound direction, Amtrak stops at the Diridon Station seven times during the weekdays between 6:40 AM and 7:15 PM.

Figure 4.16-2 shows existing transit services in the project area.

4.16.1.3 *Applicable Transportation Regulations and Policies*

The General Plan includes policies for the purpose of avoiding or mitigating impacts resulting from planned development projects with the City. The following policies are specific to transportation and are applicable to the proposed project.

Policy TR-1.1: Accommodate and encourage use of non-automobile transportation modes to achieve San José's mobility goals and reduce vehicle trip generation and vehicle miles traveled (VMT).

Policy TR-1.2: Consider impacts on overall mobility and all travel modes when evaluating transportation impacts of new developments or infrastructure projects.

Policy TR-1.4: Through the entitlement process for new development, fund needed transportation improvements for all transportation modes, giving first consideration to improvement of bicycling, walking and transit facilities. Encourage investments that reduce vehicle travel demand.

Source: Hexagon Transportation Consultants Inc.

EXISTING TRANSIT SERVICES FIGURE 4.16-2

Policy TR-1.6: Require that public street improvements provide safe access for motorists and pedestrians along development frontages per current City design standards.

Policy TR-2.8: Require new development where feasible to provide on-site facilities such as bicycle storage and showers, provide connections to existing and planned facilities, dedicate land to expand existing facilities or provide new facilities such as sidewalks and/or bicycle lanes/paths, or share in the cost of improvements.

Policy TR-3.3: As part of the development review process, require that new development along existing and planned transit facilities consist of land use and development types and intensities that contribute towards transit ridership. In addition, require that new development is designed to accommodate and to provide direct access to transit facilities.

Policy TR-5.3: The minimum overall roadway performance during peak travel periods should be level of service "D" except for designated areas and specified exceptions identified in the General Plan including the Downtown Core Area. Mitigation measures for vehicular traffic should not compromise or minimize community livability by removing mature street trees, significantly reducing front or side yards, or creating other adverse neighborhood impacts.

Policy TR-8.4: Discourage, as part of the entitlement process, the provision of parking spaces significantly above the number of spaces required by code for a given use.

Policy TR-8.6: Allow reduced parking requirements for mixed-use developments and for developments providing shared parking or a comprehensive TDM program, or developments located near major transit hubs or within Villages and Corridors and other growth areas.

Policy TR-8.9: Consider adjacent on-street and City-owned off-street parking spaces in assessing need for additional parking required for a given land use or new development.

Policy TR-9.1: Enhance, expand and maintain facilities for walking and bicycling, particularly to connect with and ensure access to transit and to provide a safe and complete alternative transportation network that facilitates non-automobile trips.

Policy CD-2.3: Enhance pedestrian activity by incorporating appropriate design techniques and regulating uses in private developments, particularly in Downtown, Urban Villages, Corridors, Main Streets, and other locations where appropriate.

Policy CD-3.3: Within new development, create a pedestrian friendly environment by connecting the internal components with safe, convenient, accessible, and pleasant pedestrian facilities and by requiring pedestrian connections between building entrances, other site features, and adjacent public streets.

4.16.2 Checklist and Discussion of Impacts

	New Potentially Significant Impact	New Less Than Significant With Mitigation Incorporated	New Less Than Significant Impact	Same Impact as "Approved Project"	Less Impact than "Approved Project"	Checklist Source(s)
Would the project:						
a) Conflict with an applicable plan, ordinance or policy establishing measures of effectiveness for the performance of the circulation system, taking into account all modes of transportation including mass transit and non-motorized travel and relevant components of the circulation system, including but not limited to intersections, streets, highways and freeways, pedestrian and bicycle paths, and mass transit?	☐	☐	☐	☒	☐	1-4,14
b) Conflict with an applicable congestion management program, including, but not limited to level of service standards and travel demand measures, or other standards established by the county congestion management agency for designated roads or highways?	☐	☐	☐	☒	☐	1-4,14
c) Result in a change in air traffic patterns, including either an increase in traffic levels or a change in location that results in substantial safety risks?	☐	☐	☐	☒	☐	1
d) Substantially increase hazards due to a design feature (e.g., sharp curves or dangerous intersections) or incompatible land uses (e.g., farm equipment)?	☐	☐	☐	☒	☐	1-4,14
e) Result in inadequate emergency access?	☐	☐	☐	☒	☐	1-4,14
f) Conflict with adopted policies, plans, or programs regarding public transit, bicycle, or pedestrian facilities, or otherwise decrease the performance or safety of such facilities?	☐	☐	☐	☒	☐	1-4,14

Similar to the site development evaluated in the Downtown Strategy EIR and the General Plan EIR, the proposed project would result in less than significant transportation impacts, as described in the following discussion.

4.16.2.1 *Trip Generation Estimates* *(Checklist Question a-c)*

The project is located within the Downtown Core which exempt the project from level of service standards. Therefore, the project is not required to prepare a comprehensive Traffic Impact Analysis (TIA). However, a Traffic Operations Analysis (TOA) has been completed in order to identify potential operational issues that could occur as a result of the proposed project. The operations analysis was conservative in its approach to estimating the number of trips generated (in addition with analysis for a larger retail space) by the project and evaluating the associated impacts.

As stated in the TOA, traffic trips generated by the proposed project were estimated based on the San José Traffic Impact Analysis (TIA) Handbook (November 2009) and the Urban Infill Land Uses in California report prepared by Kimley-Horn and Associates, Inc. (June 2009). A summary of the project trip generation estimated under existing and project conditions is shown in Table 4.16-2.

Table 4.16-2: Project Trip Generation Estimates

Land Use	AM Peak Hour			PM Peak Hour		
	In	**Out**	**Total**	**In**	**Out**	**Total**
Proposed Land Uses						
Apartment[2]	3	15	18	17	9	26
Retail[1]	15	6	21	31	31	62
Internalization Reduction[3]	-2	0	-2	-1	-3	-4
Passby Reduction[6]	0	0	0	-8	-7	-15
Existing Land Uses						
General Office[5]	<3>	<2>	<5>	<10>	<7>	<17>
Fast-Food without Drive-Through[1]	<104>	<79>	<183>	<97>	<86>	<183>
Trip Reduction for Location[4]	<-52>	<-40>	<-92>	<-49>	<-43>	<-92>
Passby Reduction[6]	<0>	<0>	<0>	<-12>	<-11>	<-23>
Net Project Trips	**-55**	**-41**	**-96**	**-7**	**-9**	**-16**

Notes: [1]Based on trip rates for "Specialty Retail/Strip Commercial", "General Office Building", and "Fast-Food without Drive-Through" contained in the San José TIA Handbook (November 2009)

[2]Peak-Hour rate and directional split were calculated using the weighted average of the counts from the high-rise apartments located at 1390 Market Street in San Francisco and the high-rise condos/townhouses located at 606 Front Street in San Diego from the Trip Generation Rates for Urban Infill Land Uses in California by Kimley-Horn and Associates, Inc. (June 2009)

[3]The maximum trip reduction for mixed-use development projects with housing and retail is equal to 15 percent off the smaller trip generator (TIA Guidelines October 2014).

[4]The number of trips generated by the fast-food restaurant with drive-through was reduced by 50 percent to account for its location within downtown and close proximity to San José State University.

[5]Based on driveway counts conducted on November 3, 2016.

[6]A 25 percent PM pass-by reduction is typically applied for retail development within Santa Clara County.

Implementation of the project would generate 100 fewer trips during the AM Peak Hour and 36 fewer trips during the PM Peak Hour. Therefore, the proposed project would not create new or more significant environmental impact beyond those identified in the Downtown Strategy EIR and General Plan EIR. **[Same Impact as Approved Project (Less Than Significant Impact)]**

4.16.2.2 *Site Access and Circulation (Checklist Questions a, d, f)*

Site Access

The project proposes one left-turn only entry/exit driveway to the proposed on-site parking structure. The City of San José's Municipal Code Section 20.90.100 requires on-site driveways that serve multi-directional traffic to be 26 feet wide. The site plan indicates the width of the project driveway to be 24 feet wide and, as a result, it is recommended the driveway be widened to 26 feet.

The City typically requires parking garage entrances to be located at least 50 feet from the face of the curb in order to provide adequate stacking space for at least two inbound vehicles. This requirement may not always be achievable in the downtown area due to the zero setback requirement for buildings located in downtown. The City has reviewed the project and TOA and as part of the project condition, the garage entrance gates be located a minimum of one car length back from the sidewalk (within the parking garage) on South Second Street to be able to accommodate one entering vehicle at the garage gates without blocking the sidewalk to ensure safety.

The project, as shown in the provided site plan, proposes an off-street loading area that will accommodate two large trucks with access off of Second Street. The project requires two additional loading spaces to meet the City requirements. As per section 20.70.450 of the Downtown Zoning Regulations, the Planning Director may authorize the reduction of two on-site loading spaces to one on-site loading space in connection with the issuance of a development permit if the Director finds that sufficient on-street loading space exists to accommodate circulation and manipulation of freight. The project and TOA was analyzed by the City and as part of the project condition, the project shall restrict the use of truck loading dock driveway on South 2nd Street for large trucks that must back into entrance for loading and unloading during certain hours to not impede traffic flow along South 2nd Street during the peak commute.

On-Site Circulation

The City's standard width for two-way drive aisles is 26 feet wide where 90-degree parking is provided. This allows sufficient room for vehicles to back out of parking spaces. The site plan indicates that the drive aisles would be 20 feet or 24 feet.

The Second Street driveway would provide access to the parking garage. Vehicles would enter the parking garage and either make a left-turn to proceed down to the basement level parking or continue straight to circulate through the three levels of above-grade parking. Circulation through each of the levels of the parking garage (with the exception of the third parking level) would be in a continuous counter-clockwise rectangular loop. The third parking level includes a dead-end drive aisle. The proposed parking garage would be restricted to residents with assigned parking only; therefore, the dead-end drive aisles would not result in on-site circulation impacts.

The first parking level includes a ramp and drive aisle to access the designated accessible parking spaces and one of the three bike storage facilities. The signage restricting the use of the ramp to bicycle and accessible parking should be placed at the ramp entrance. The City has reviewed the project and TOA and has determined that overall, the parking garage provide adequate circulation.

The proposed project would conform to all applicable City's policies and project conditions and would not create substantially increase hazards due to a design feature. **[Same Impact as Approved Project (Less Than Significant Impact)]**

4.16.2.3 *Emergency Vehicle Access (Checklist Questions e)*

The fire code requires driveways to provide 32 feet of clearance for fire access. SJFD requires that all portions of the buildings be within 150 feet of a fire department access road, and requires a minimum of six feet clearance from the property line along all sides of the building. The final site design would be reviewed for consistency with applicable fire department standards. As such, the proposed project would have a less than significant emergency vehicle access impact. **[Same Impact as Approved Project (Less Than Significant Impact)]**

4.16.2.4 *Pedestrian, Bicycle, and Transit Facilities (Checklist Question f)*

Pedestrian Facilities

Sidewalks are provided along the project's frontages on South Second Street, South Third Street, and East San Carlos Street. Existing pedestrian facilities have good connectivity and provide residents with a safe connection between the project site and surrounding land uses. Implementation of the proposed project would likely increase pedestrian traffic in the immediate project area, but would not exceed the capacity of the existing facilities or preclude the construction of planned improvements. **[Same Impact as Approved Project (Less Than Significant Impact)]**

Bicycle Facilities

The project site is well served by various existing bicycle facilities including Class II bike lanes on South Second Street, south of San Salvador Street, South Third Street, and South Fourth Street. East San Carlos Street and South Second Street do not provide Class II bike lanes; however, East San Carlos Street (between Fourth Street and Woz Way) and Second Street (north of San Salvador Street) are designated Class III bike path and provide shared-lane markings. In addition, the Guadalupe River Park Trail, a Class I pedestrian and bicycle trail, is accessible via West San Carlos Street and South Almaden Boulevard, approximately 0.5 miles west of the project site. Implementation of the proposed project would not preclude the construction of planned bicycle facilities and increased bicycle usage resulting from the project would not exceed the capacity of the existing system. **[Same Impact as Approved Project (Less Than Significant Impact)]**

Transit Facilities

The project is in close proximity to major transit services and would provide the opportunity for multi-modal travel to and from the project site. The San Antonio LRT station (along First and Second Street) are located within walking distance of the project site. In addition, the San José Diridon Station is located along the Mountain View-Winchester LRT line and is served by Caltrain, ACE, and Amtrak. The pedestrian and bicycle facilities located adjacent to the project site provide access to major transit stations.

Implementation of the proposed project would not interfere with the construction of planned transit facilities and increased transit usage resulting from the project would not exceed the capacity of the existing system. **[Same Impact as Approved Project (Less Than Significant Impact)]**

4.16.2.5 *Airport Operations (Checklist Question c)*

The project would be required to comply with the height restrictions established by the FAA and would not result in a change in air traffic patterns. Please refer to *Section 4.8,* for a complete discussion of the project's compatibility with airport operations. **[Same Impact as Approved Project (Less Than Significant Impact)]**

4.16.2.6 *Operational Transportation Issues Not Covered Under CEQA*

Vehicle Parking

Based on the City's downtown zoning regulations parking requirement, the project is required to provide one off-street parking space per residential unit. The project is not required to provide additional off-street parking for the retail component of the project. Based on the City's off-street parking requirements, the project would be required to provide a total of 260 off-street parking spaces.

The project proposes a total of 265 on-site parking stalls. The on-site parking would be adequate to serve the project.

Tandem parking is being proposed within all parking garage levels. If the tandem parking spaces are assigned, the tandem parking spaces would not create any parking-related issues. The City of San José Planning Director may issue a development permit to allow tandem parking spaces to satisfy up to 50 percent of the off-street parking requirement for the project.

Bicycle Parking

The City's downtown zoning regulations require one bicycle parking space per four living units and one bicycle parking space per 3,000 square feet of retail floor space. Bicycle parking spaces shall consist of at least 60 percent long-term and at most forty percent short-term spaces. The project would be required to provide a total of 71 bicycle parking spaces (43 long-term bicycle parking spaces and 28 short-term bicycle parking spaces) to meet the City's standards.

The project proposes bicycle storage space for 577 bicycles within three storage rooms. The proposed on-site bicycle parking would exceed the City bicycle parking requirements.

Intersection Operations – Queuing

While intersections in the Downtown area are exempt from the City's LOS policy, operation of the nearby intersection of E. San Carlos Street/S. Second Street was evaluated under project conditions to assess whether the project would create a safety impact. Queuing analysis for the above intersections were conducted to evaluate the size of the existing pockets and the number of vehicles a proposed project would generate at the existing pocket. If project traffic exceeds an existing pocket length and traffic spills out of the pocket, typically traffic will be more congested, resulting in more

delay but not result in any safety concern, especially in a downtown setting. From a CEQA standpoint, there are no quantitative thresholds specific to queuing. There is, however, a qualitative threshold which states that the project would have a significant impact if the project would substantially increase hazards due to a design feature (e.g., sharp curves or dangerous intersections) or incompatible uses (e.g., farm equipment). It is important to note that lengthening a left-turn queue into the adjacent through lane does not in itself create a safety impact.

The full queuing analysis summary is provided in the Appendix G of this IS/Addendum which summarizes the results of the analysis.

4.16.3 Conclusion

Implementation of the project would result in the same significant impacts to the transportation system as was previously identified in the Downtown Strategy EIR and the General Plan EIR. **[Same Impact as Approved Project (Significant Impact)]**

4.17 UTILITIES AND SERVICE SYSTEMS

4.17.1 Setting

4.17.1.1 *Water Services*

Water service is provided to the City of San José by three water retailers, San José Water Company, the City of San José Municipal Water System, and the Great Oaks Water Company. Water services to the project site would be supplied by the San José Water Company. There are currently no recycled water lines in the immediate site vicinity. [30] This analysis assumes no current water use on the site.

4.17.1.2 *Sanitary Sewer/Wastewater Treatment*

Wastewater from the City of San José is treated at the San José-Santa Clara Regional Wastewater Facility (the Facility). The Facility is a regional wastewater treatment facility serving eight tributary sewage collection agencies and is administered and operated by the City of San José's Department of Environmental Services. The Facility provides primary, secondary, and tertiary treatment of wastewater and has the capacity to treat 167 million gallons of wastewater a day. The Facility treats an average of 110 million gallons of wastewater per day and serves 1.4 million residents.[31] The Facility is currently operating under a 120 million gallon per day dry weather effluent flow constraint. This requirement is based upon the SWRCB and the RWQCB concerns over the effects of additional freshwater discharges on the saltwater marsh habitat and pollutant loading to the Bay from the Facility. Approximately ten percent of the plant's effluent is recycled for non-potable uses. The remainder is discharged into the Bay after treatment which removes 99 percent of impurities to comply with state regulations.

There is an existing 12-inch sanitary sewer line along East San Carlos Street, an eight-inch sanitary sewer line along Second Street, and an eight-inch sanitary sewer line along Third Street. This analysis assumes no current generation of wastewater on the site.

4.17.1.3 *Stormwater Drainage*

The City of San José owns and maintains the municipal stormwater drainage system which serves the project site. The lines that serve the project site drain into Guadalupe River and carry stormwater from the storm drains into San Francisco Bay. The project site is approximately 0.6 miles from Guadalupe River. There is no overland release of stormwater directly into any water body from the project site.

Currently, the project site is 92 percent impervious. There is an existing 12-inch storm drain line that connects to an existing 15-inch storm drain line on Third Street, which connects to an existing 18-inch storm drain line on East San Carlos Street that would serve the project site.

[30] South Bay Water Recycling. *Recycled Water Pipeline System*. July 28, 2011. Available at: https://www.sanjoseca.gov/DocumentCenter/View/4692. Accessed October 13, 2016.
[31] City of San José. San José-Santa Clara Regional Wastewater Facility. http://www.sanjoseca.gov/?nid=1663 Accessed October 13, 2016.

4.17.1.4 *Solid Waste*

Santa Clara County's Integrated Waste Management Plan (IWMP) was approved by the California Integrated Waste Management Board (CIWMB) in 1996 and was reviewed in 2004 and 2007. Each jurisdiction in the county has a diversion requirement of 50 percent for 2000 and each year thereafter. According to the IWMP, the County adequate disposal capacity beyond 2022. The total permitted landfill capacity of the five operating landfills in the City is approximately 5.3 million tons per year.

This analysis assumes no current generation of solid waste on the site.

4.17.1.5 *Applicable Utilities and Service Systems Regulations and Policies*

The Envision San José 2040 General Plan includes the following policies applicable to the proposed project.

Policy MS-1.4: Foster awareness in San José's business and residential communities of the economic and environmental benefits of green building practices. Encourage design and construction of environmentally responsible commercial and residential buildings that are also operated and maintained to reduce waste, conserve water, and meet other environmental objectives.

Policy MS-3.2: Promote use of green building technology or techniques that can help to reduce the depletion of the City's potable water supply as building codes permit.

Policy MS-3.3: Promote the use of drought tolerant plants and landscaping materials for nonresidential and residential uses.

Policy IN-3.10: Incorporate appropriate stormwater treatment measures in development projects to achieve stormwater quality and quantity standards and objectives in compliance with the City's National Pollutant Discharge Elimination System (NPDES).

4.17.2 Checklist and Discussion of Impacts

	New Potentially Significant Impact	New Less Than Significant With Mitigation Incorporated	New Less Than Significant Impact	Same Impact as "Approved Project"	Less Impact than "Approved Project"	Checklist Source(s)
Would the project:						
a) Exceed wastewater treatment requirements of the applicable Regional Water Quality Control Board?	☐	☐	☐	☒	☐	1-4
b) Require or result in the construction of new water or wastewater treatment facilities or expansion of existing facilities, the construction of which could cause significant environmental effects?	☐	☐	☐	☒	☐	1-4

	New Potentially Significant Impact	New Less Than Significant With Mitigation Incorporated	New Less Than Significant Impact	Same Impact as "Approved Project"	Less Impact than "Approved Project"	Checklist Source(s)
Would the project:						
c) Require or result in the construction of new stormwater drainage facilities or expansion of existing facilities, the construction of which could cause significant environmental effects?	☐	☐	☐	☒	☐	1-4
d) Have sufficient water supplies available to serve the project from existing entitlements and resources, or are new or expanded entitlements needed?	☐	☐	☐	☒	☐	1-4
e) Result in a determination by the wastewater treatment provider which serves or may serve the project that it has adequate capacity to serve the project's projected demand in addition to the provider's existing commitments?	☐	☐	☐	☒	☐	1-4
f) Be served by a landfill with sufficient permitted capacity to accommodate the project's solid waste disposal needs?	☐	☐	☐	☒	☐	1-4

Consistent with the Downtown Strategy EIR and General Plan EIR, the project would result in less than significant utility and service systems impacts.

4.17.2.1 ***Water Supply*** *(Checklist Questions b and d)*

As proposed, the project would construct a 19-story, high-density residential building with ground floor retail. Based on the usage numbers from the San José Water Company[32], the proposed development would use approximately 105,478 gpd of water[33].

The General Plan EIR determined that implementation of the General Plan would result in an increase in demand for water; however, with implementation of General Plan policies and regulations, full buildout under the General Plan would not exceed the available water supply under standard conditions and drought conditions.

[32] Water usage numbers were based on a Water Supply Assessment (WSA) prepared by the San José Water Company for the Santana Row Expansion Project.

[33] Based on a demand factor of 400 gpd per unit, the 260 residential units would use approximately 104,000 gpd of water. Based on a demand factor of 0.10 gpd per square foot, the proposed retail and commercial/restaurant would use approximately 1,478 gpd of water.

The proposed project would be consistent with planned growth in the General Plan and would comply with the policies and regulations identified in the General Plan EIR. Therefore, implementation of the proposed project would have a less than significant impact on the City's water supply. **[Same Impact as Approved Project (Less Than Significant Impact)]**

4.17.2.2 *Storm Drainage System (Checklist Questions a, b, and e)*

The project proposes to discharge to an existing 12-inch storm drain in S. Third Street and an 18-inch storm drain in E. San Carlos Street. Under existing conditions, the project site is 92 percent impervious. The project would decrease the overall impervious surface area compared to pre-project conditions. This would result in a decrease in stormwater discharge from the site to the surrounding City storm main that currently exists. As a result, the overall decrease in stormwater runoff resulting from the project would not impact the existing storm drainage system and there would be sufficient capacity to support future project conditions.

Construction of the project would result in the replacement of more than 10,000 square feet of impervious surface area. The project would be required to comply with the City of San José's Post-Construction Urban Runoff Policy 6-29 and the RWQCB Municipal Regional Stormwater NPDES permit. In order to meet these requirements, the proposed development would include flow-through planters and media filters. Runoff from the tower roof and amenity deck areas would be piped to bioretention planters. Runoff that cannot be directed to the bioretention planters would be treated with media filters in the garage.

The Downtown Strategy EIR, and General Plan EIR concluded that with the regulatory programs currently in place, stormwater runoff from new development would have a less than significant impact on stormwater quality. The project would be required to comply with the Municipal Regional Stormwater NPDES permit requirements. Runoff from the project site would not exceed the capacity of local drainage system. **[Same Impact as Approved Project (Less Than Significant Impact)]**

4.17.2.3 *Sanitary Sewer Capacity (Checklist Question c)*

For the purposes of this analysis, it is assumed that the total wastewater generation would be equal to total potable water usage on-site, due to the minimal landscaping proposed on-site that would divert water from the sanitary sewer system.

The City currently has approximately 38.8 mgd of excess wastewater treatment capacity. Based on a sanitary sewer hydraulic analysis prepared for the General Plan EIR, full build out under the General Plan would increase average dry weather flows by approximately 30.8 mgd.

The project is estimated to generate approximately 0.3 million gpd of wastewater. The surrounding sanitary sewer system was previously analyzed and there are identified deficiencies on S. Third Street. Planned improvements have already been identified to address this issue. The system would not, however, experience a surcharge and the project contribution to the deficiencies would be less than one percent. No additional improvement, other than those already identified, would be required to support the proposed project.

The proposed project is consistent with the development assumptions in the General Plan. Development allowed under the General Plan would not exceed the City's allocated capacity at the City's wastewater treatment facility; therefore, implementation of the proposed project would have a less than significant impact on wastewater treatment capacity. **[Same Impact as Approved Project (Less Than Significant Impact)]**

4.17.2.4 ***Solid Waste*** *(Checklist Question c)*

The proposed development on-site would generate a total of approximately 1,418 pounds of solid waste per day.[34]

The total solid waste generated by the proposed project would increase, compared to existing conditions on-site. The General Plan EIR concluded that implementation of the Envision San José 2040 General Plan would not exceed the capacity of existing landfills serving the City of San José. The estimated increases in solid waste generation from development would be avoided through implementation of the City's Zero Waste Strategic Plan. The Waste Strategic Plan in combination with existing regulations and programs, would ensure that full build out of the General Plan would not result in significant impacts on solid waste disposal capacity. **[Same Impact as Approved Project (Less Than Significant Impact)]**

4.17.3 Conclusion

The project would not result in any utility or service facility exceeding current capacity or require the construction of new infrastructure or service facilities to support the project. **[Same Impact as Approved Project (Less Than Significant Impact)]**

[34] The project's solid waste generation is based on a solid waste generation rate of 2.5 pounds per 1,000 square feet per day for commercial retail space, and 5.31 pounds per unit per day for multi-family units.

4.18 MANDATORY FINDINGS OF SIGNIFICANCE

		New Potentially Significant Impact	New Less Than Significant With Mitigation Incorporated	New Less Than Significant Impact	Same Impact as "Approved Project"	Less Impact than "Approved Project"	Checklist Source(s)
a)	Does the project have the potential to degrade the quality of the environment, substantially reduce the habitat of a fish or wildlife species, cause a fish or wildlife population to drop below self-sustaining levels, threaten to eliminate a plant or animal community, reduce the number or restrict the range of a rare or endangered plant or animal or eliminate important examples of the major periods of California history or prehistory?	☐	☐	☐	☒	☐	1-14
b)	Does the project have impacts that are individually limited, but cumulatively considerable? ("Cumulatively considerable" means that the incremental effects of a project are considerable when viewed in connection with the effects of past projects, the effects of other current projects, and the effects of probable future projects)?	☐	☐	☐	☒	☐	1-14
c)	Does the project have the potential to achieve short-term environmental goals to the disadvantage of long-term environmental goals?	☐	☐	☐	☒	☐	1-14
d)	Does the project have environmental effects which will cause substantial adverse effects on human beings, either directly or indirectly?	☐	☐	☐	☒	☐	1-14

4.18.1 **Project Impacts** *(Checklist Question a)*

As discussed in the individual sections, the proposed project would not degrade the quality of the environment with implementation of the identified Standard Permit Conditions and mitigation measures. As discussed in *Section 4.3 Air Quality*, with implementation of mitigation measures MM AIR-1.1 through MM AIR-1.3 and Standard Permit Conditions, the project would result in a less than significant community risk impact due to construction activities.

As discussed in *Section 4.4 Biological Resources*, the project would not impact sensitive habitats or species. With the implementation of mitigation measures MM BIO-1.1 through MM BIO-1.3, the project would not impact nesting raptors or migratory birds. The project would implement the Standard Permit Conditions listed in *Section 4.6 Geology and Soils* to reduce construction related erosion impacts.

As discussed in *Section 4.12 Noise and Vibration*, with the implementation of Standard Permit Conditions and mitigation measures MM NOI-1.1, the project would have a less than significant impact resulting from an increase in ambient noise levels in the project area and from vibration during construction.

The project would not result in new or more significant impacts than identified in the certified Downtown Strategy EIR and General Plan EIR.

4.18.2 **Cumulative Impacts** *(Checklist Question b)*

Under Section 15065(a)(3) of the CEQA Guidelines, a lead agency shall find that a project may have a significant effect on the environment where there is substantial evidence that the project has potential environmental effects "that are individually limited, but cumulatively considerable." As defined in Section 15065(a)(3) of the CEQA Guidelines, cumulatively considerable means "that the incremental effects of an individual project are significant when viewed in connection with the effects of past projects, the effects of other current projects, and the effects of probable future projects." In addition, under Section 15152(f) of the CEQA Guidelines, where a lead agency has determined that a cumulative effect has been adequately addressed in a prior EIR, the effect is not treated as significant for purposes of later environmental review and need not be discussed in detail.

The proposed development would result in temporary air quality, water quality, biology, and noise impacts during construction. With the implementation of the identified mitigation measures and Standard Permit Conditions, and consistency with adopted City policies, the construction impacts would be mitigated to a less than significant level. The identified impacts are temporary and would be mitigated, therefore, the project would not have a cumulatively considerable impacts on air quality, water quality, biology, and noise impacts in the project area.

Implementation of the project could result in the loss of up to 39 trees. Any trees removed would be replaced on-site consistent with the City's tree replacement policy. The project would have no long-term effect on the urban forest or the availability of trees as nesting and/or foraging habitat. Therefore, the project would not have a cumulatively considerable impact on biological resources.

Because criteria air pollutant and GHG emissions would contribute to regional and global emissions of such pollutants, the identified thresholds developed by BAAQMD and used by the City of San José were developed such that a project-level impact would also be a cumulatively considerable impact. The project would not result in a significant criteria air pollutant emissions or GHG emissions. Therefore, the project would not contribute to a significant cumulative considerable impact to air quality or GHG emissions impact.

The project's contribution to a cumulative impact on land use, population and housing, public services, and recreation were analyzed in the Downtown Strategy EIR and General Plan EIR. The

proposed project would not result in a more significant cumulative impact related to these issues than disclosed within these documents.

The project would contribute to the significant cumulative transportation impact that would occur under full buildout of the Downtown Strategy plan and General Plan. The project would not, however, result in any new or more significant cumulative impacts than the approved projects. Mitigation measures were adopted where feasible and statements of overriding considerations have been adopted for both plans.

The project would have no impact or a less than significant impact on aesthetics, geology and soils, hazardous materials, agricultural and forest resources, or mineral resources. Therefore, the project would not contribute to a significant cumulative impact on these resources.

4.18.3 Short-Term versus Long-Term Environmental Goals *(Checklist Question c)*

The project proposes to redevelop the site with a 19-story high-density residential building, consistent with the long-term goals for the site outlined in the General Plan. Construction of the project would result in the temporary disturbance of previously developed land, as well as an irreversible and irretrievable commitment of resources and energy during construction.

Construction of the proposed project would not result in the conversion of a greenfield site to urban uses or otherwise commit resources in a wasteful or inefficient manner. The project proposes to redevelop an infill location in San José and it is anticipated that short-term effects resulting from construction would be substantially off-set by meeting the long-term environmental goals (such as increased building energy efficiency) for this site. The operational phase would consume energy for multiple purposes including building heating and cooling, lighting, and electronics. Energy, in the form of fossil fuels, would be used to fuel vehicles traveling to and from the project site. The project would result in an increase in demand upon nonrenewable resources; however, the project is required to comply with the City's Private Sector Green Building Policy and the Greenhouse Gas Reduction Strategy. The project shall incorporate a variety of design features including community design and planning, site design, landscape design, building envelope performance, and material selections to reduce energy use and conserve water.

With implementation of the mitigation measures included in the project and compliance with General Plan policies, the proposed project would not achieve short-term environmental goals to the disadvantage of long-term environmental goals.

4.18.4 Direct or Indirect Adverse Effects on Human Beings *(Checklist Question d)*

Consistent with Section 15065(a)(4) of the CEQA Guidelines, a lead agency shall find that a project may have a significant effect on the environment where there is substantial evidence that the project has the potential to cause substantial adverse effects on human beings, either directly or indirectly. Under this standard, a change to the physical environment that might otherwise be minor must be treated as significant if people would be significantly affected. This factor relates to adverse changes to the environment of human beings generally, and not to effects on particular individuals. While changes to the environment that could indirectly affect human beings would be represented by all of the designated CEQA issue areas, those that could directly affect human beings include construction air quality, hazardous materials, and noise. Implementation of mitigation measures and General Plan

policies would, however, reduce these impacts to a less than significant level. No other direct or indirect adverse effects on human beings have been identified.

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SECTION 6.0 LEAD AGENCY AND CONSULTANTS

6.1 LEAD AGENCY

City of San José
Department of Planning, Building, and Code Enforcement
Harry Freitas, Director
David Keyon, Supervising Environmental Project Planner
Thai-Chau Le, Planning Project Manager

6.2 CONSULTANTS

David J. Powers & Associates, Inc.
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Judy Shanley, Principal
Shannon George, Senior Project Manager
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Cultural Resources

Cornerstone Earth Group, Inc.
Sunnyvale, CA
Geotechnical Services

Hexagon Transportation Consultants, Inc.
Gilroy, CA
Transportation

Illingworth & Rodkin, Inc.
Petaluma, CA
Air Quality